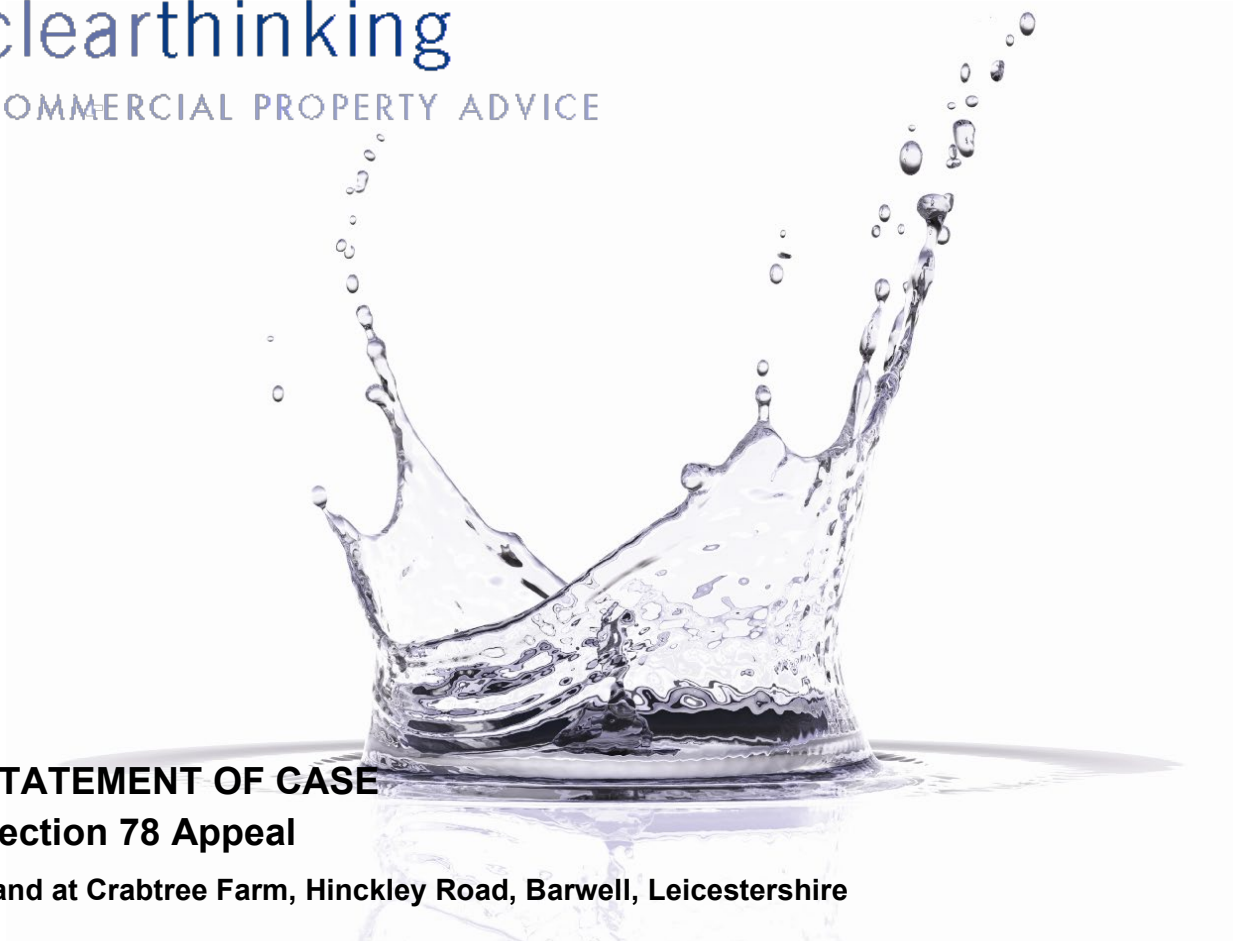


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COMMERCIAL PROPERTY ADVICE



STATEMENT OF CASE Section 78 Appeal

Land at Crabtree Farm, Hinckley Road, Barwell, Leicestershire

- **23/01184/FUL (Application A – North East Parcel):** Residential development of 16 dwellinghouses with associated garages, driveway, open space, landscaping, drainage and LEAP
- **23/01175/FUL (Application B – Eastern Parcel):** Residential development of 51 dwellings with associated access and parking (revised scheme of 21/00695/FUL)
- **23/01186/FUL (Application C – North West Parcel):** Residential development of 14 dwellinghouses with associated garages, driveway, open space, landscaping, drainage and LEAP
- **23/01177/FUL (Application D – Western Parcel):** Residential development of 44 dwellinghouses with garage and associated driveway, open space, landscaping, drainage and LEAP (Revised scheme 22/01053/FUL)

On Behalf Of:

Barwell Capitol Limited

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Job Ref: P8204

Date: 16th December 2025

STATEMENT OF CASE

LAND AT CRABTREE FARM, HINCKLEY ROAD, BARWELL

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Issued By



Signature:

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Date: 16th December 2025

Approved By



Signature:

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Date: 16th December 2025

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1.0 INTRODUCTION

1.1 Harris Lamb Planning Consultancy (“**HLPC**”) are instructed by Barwell Capitol Limited (“**The Appellant**”) to submit four planning appeals following the refusal of four separate planning applications by Hinckley & Bosworth Borough Council (“**HBBC**”). The four planning applications were submitted as “full” applications and, in combination, proposed the residential led development of a parcel of land to the south of Hinckley Road, Barwell, known as Crabtree Farm. The location and extent of Crabtree Farm is shown on the Overall Site Location Plan (ref. A951 27) (CD L9; CD O9; CD R10; CD U10).

1.2 The planning application reference numbers and Descriptions of Development that appear on the Decision Notices are as below (together referred to as the “**Appeal Sites**”):

- **23/01184/FUL (Application A – North East Parcel):** Residential development of 16 dwellinghouses with associated garages, driveway, open space, landscaping, drainage and LEAP
- **23/01175/FUL (Application B – Eastern Parcel):** Residential development of 51 dwellings with associated access and parking (revised scheme of 21/00695/FUL)
- **23/01186/FUL (Application C – North West Parcel):** Residential development of 14 dwellinghouses with associated garages, driveway, open space, landscaping, drainage and LEAP
- **23/01177/FUL (Application D – Western Parcel):** Residential development of 44 dwellinghouses with garage and associated driveway, open space, landscaping, drainage and LEAP (Revised scheme 22/01053/FUL)

1.3 The total number of dwellings referred to in the four Description of Developments is 125 dwellings. However, following the refusal of the

applications, amendments were made to the scheme to try to address the Refusal Reasons. This resulted in the number of dwellings proposed by planning application 23/01186/FUL being reduced from 14 to 13 dwellings, equating to a total of 124 dwellings across Appeal Site as a whole. These changes were the subject of discussion with HBBC and subject to Wheatcroft consultation. The details of the Wheatcroft constitution are set out in Section 6 of the SoC. It is requested that the Appeal is determined based upon the Wheatcroft consultation plans. It should be noted that the only further change made to the layout plans since the Wheatcroft consultation has been to reflect the change in tenure of two plots from market to affordable (plots 120 and 121). The post-determination plans requested to be approved through the Appeals are set out in Groups L, O, R and U of the Core Documents List.

- 1.4 Identical Statements of Case (“**SoC**”) and Statements of Common Ground (“**SoCG**”) have been submitted with each of the four appeals. The Appeal Sites adjoin one another. Together, they proposed a comprehensive design solution for Crabtree Farm. The four applications were determined in conjunction by HBBC and the Refusal Reasons on the Decision Notices are identical. It is requested that the four appeals are conjoined and a single Hearing session is convened.

Statement of Case

- 1.5 This SoC has been prepared in accordance with the requirements of Section 78(2) of the Town and Country Planning Act 1990 (as amended). It sets out the full case on behalf of the Appellant. It has been prepared having regard to the Planning Inspectorate’s most recent Procedural Guidance. It has been informed by evidence in relation to:

- Design Statement of Case – Mr James Ridgeway of White Ridge (CD E11)
- Education and Healthcare Statement of Case – Mr Ben James Hunter BA DipMS of EFM (CD E12)

- Highways Statement of Case – Mr Philip Taylor of Savoy Consulting (CD E13)

1.6 Statements from each of these disciplines are submitted by the Appellant as part of the appeal to address the refusal reasons.

1.7 In addition, a S.106 Note (CD E14) is provided by Mr Ben Arrowsmith of Roythornes Solicitors explaining the structure of the forthcoming S.106 agreements. There will be two S.106 agreements, one for the Eastern Field encompassing planning applications 23/01184/FUL and 23/01175/FUL, and second S.106 for Western Field encompassing planning applications 23/01186/FUL and 23/01177/FUL. The S.106 note provides the rationale for this approach.

The Refusal Reasons and Main Matters

1.8 The four planning applications were refused by HBBC under delegated powers on 11th July 2025 with the same reasons for refusal. The reasons for refusal on the Decision Notices state:

- 1. The applicant is unwilling to agree Section 106 contributions for the delivery of library services, education provision, health services, or travel packs. As such the applications 23/01175/FUL, 23/01177/FUL, 23/01184/FUL and 23/01186/FUL fail to make necessary, fair and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.*
- 2. When taken together as a whole, the revised layout and increased density of applications 23/01175/FUL, 23/01177/FUL, 23/01184/FUL and 23/01186/FUL results in poor design by virtue of an unadoptable internal road layout and a lack of usable open space. This causes*

three issues, insufficient on-site open space, waste collection issues by virtue of refuse vehicles being unable to access the substandard internal roads of the site, and potentially unsustainable management liabilities for future occupiers. The applicant is unwilling to agree S.106 contributions for the site provision of casual informal and natural green space; the applicant has also failed to provide conceptual details of the future management of the site's open space, roads and footpath and waste collection. The schemes are therefore contrary to Policies DM10 and DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016), to the Council's Good Design Guide and to key paragraphs 129, 135 and 139 of the National Planning Policy Framework (2024).

1.9 Taking into account the above reasons for refusal, it is the Appellant's view that the main matters for consideration in the determination of the Appeals are:

- i) The acceptability of the S.106 package (specifically, education and healthcare contributions);
- ii) The adoptability of roads; and
- iii) The acceptability of the proposed design and layout and open space provision.

1.10 Refusal Reason 2 refers to the road network being unadoptable. It is the Appellant's view that the proposed internal road network is capable of adoption. Mr Taylor addresses this matter in his Statement of Case. In any event, there is no requirement for the road network to be adopted.

1.11 Refusal Reason 2 also refers to the Appellant not proving "conceptual details of future management of the site's open space, roads and footpath and waste collection". Management arrangements will be addressed in the S.106.

- 1.12 The Refusal Reasons do not question the principle of development taking place on the site. For good the Statement of Case confirms the Appellants view on the principle of development should be supported and the benefits of granting planning permission.

Background to Refusal of Applications

- 1.13 It was Officers intention to take each application to Planning Committee with a recommendation for approval, subject to matters of clarity (email of Ed Stavey – Planning Manager HBBC 3rd July 2025 – Appendix 1). However, the Appellant was of the view that the proposed S.106 package is not CIL complaint. As such the Appellant requested that planning permission was refused so the contributions could be challenged at Appeal (email of Mr David Baker dated 4th July 2025 – Appendix 1).
- 1.14 Given this context the Appellant considers that the focus of the appeals should be the main matter at i. above (i.e. the acceptability of the S.106 package).
- 1.15 Since the refusal of the applications the Appellant has made minor amendments to the application plans to try to resolve Officers concerns to minimise the areas of disagreement at the Appeal, specifically relating to the main matters at ii. and iii. above. Amended plans have been the subject of Wheatcroft consultation. The details of the Wheatcroft consultation are confirmed in this SoC.
- 1.16 Should the Appeal(s) be allowed, a draft schedule of suggested conditions is provided in the SoCG (CD H1). A list of plans requested to be approved through each individual Appeal is also provided for each application within CD I1, CD I2, CD I3 and CD I4, and reflected in the conditions. The proposed plan list reflects the Wheatcroft consultation, with the only further change made to the layout plans since the Wheatcroft consultation being to reflect the change in tenure of two plots from market to affordable (plots 120 and 121).

Planning Overview

- 1.17 The Development Plan comprises the HBBC Core Strategy (CD B1), adopted in December 2009, and the Site Allocations and Development Management Policies DPD (CD B2), adopted in July 2016. The Appeal Site is not identified as a residential allocation by the Development Plan. It is outside of but adjacent to the defined settlement boundary of Barwell and forms part of a Green Wedge.
- 1.18 HBBC do not have a five year housing land supply. HBBC most recent five year housing land supply position is confirmed in appeal decision APP/K2420/W/24/3348387 (13 March 2025) (CD G2). The Inspector concluded that the Council can only demonstrate a 3.55 year supply. Therefore, the Appeal Scheme should be determined in accordance with the guidance contained in Paragraph 11.d of the Framework.
- 1.19 Significantly, Crabtree Farm has the benefit of two extant planning permissions that allow for the development of 96 dwellings across in combination. Planning permission 22/01053/FUL was granted by HBBC in October 2023 and allowed for development of 45 dwellings (CD D6). Planning application 21/00695/FUL was granted at appeal in March 2023 (APP/K2420/W/22/3308175 – Appeal Decision CD G1) and allowed for the development of 51 dwellings. The principle of the development of Crabtree Farm for housing has been accepted. This is agreed by HBBC, as stated in the Case Officers Report for each planning application (CD D5). The Refusal Reasons do not suggest that residential development in this location is unacceptable in principle.

Rationale for Four Applications

- 1.20 The four applications were submitted to HBBC simultaneously so that they could be determined concurrently. The four planning applications were prepared to bring forward the development of the Appeal Site as a whole and provide a comprehensive design solution. Plan ref. A951 005 P (CD L1, CD

O1, CD R1, CD U1) demonstrates how the entirety of the site would be developed if the appeal is allowed for each scheme.

- 1.21 Notwithstanding this, it is the Appellant's view that the applications for the Eastern Field (23/01184/FUL and 23/01175/FUL) and Western Field (23/01186/FUL and 23/01177/FUL) can be brought forward independently. They provide a discrete design solution for each field and include the necessary infrastructure to serve the development. Separate S.106 have been prepared for the east and west field applications.

Structure of the Statement of Case

- 1.22 In the remainder of this Statement, I provide a description of the Appeal Site and surrounding area in Section 2. I provide a description of the Appeal proposals in Section 3. In Section 4 and 5 respectively I provide the summary of the Appeal Site's planning history and the Council's consideration of the application. In Section 6 I set out details of actions taken since the determination of the applications to resolve issues within the refusal reasons, including in relation to a Wheatcroft consultation. In Section 7 I set out the relevant planning policy considerations. I then set out the case of the appellant in Section 8 before undertaking the planning balance exercise having regard to a variety of issues including housing land supply factors, developer contributions and design and layout. Conclusions are then reached in Section 9.

- 1.23 A Core Documents List is submitted as part of the Appeal. Individual references are assigned to the Core Documents and are referred to throughout this SoC.

The Application Submissions

- 1.24 As part of the appeal, a list for each Application is provided setting out the plans and documents submitted at various stages at submission, following

submission and post-determination (CD I1, CD I2, CD I3, CD I4). These lists are split into the following categories:

- 1) Plans and documents submitted during the application process
- 2) Plans and documents on which the LPA made its decision
- 3) Post-determination plans and documents
- 4) Plans requested to be approved through the Appeal

2.0 DESCRIPTION OF PLANNING APPEAL PROPOSALS

- 2.1 The Appeal Scheme comprises of four planning applications which propose the comprehensive development of the Appeal Site. The SoCG should be referred to for a detailed description of the appeal proposals (Section 3 of the SoCG).
- 2.2 The Design and Access Statements (CD J14, CD M23, CD P12, CD S26) accompanying each application provide a detailed description of each proposed development and an explanation as to how the scheme works in its entirety.
- 2.3 Since the determination of the applications, revisions have been made to the plans for each application in order to address the part of the refusal reason relating to the internal road layout and a Wheatcroft consultation has been undertaken. The key changes made to the Appeal Scheme since the determination of the applications and the outcomes of the Wheatcroft consultation are detailed in Section 7. Given the minor changes proposed by the Wheatcroft consultation it does not affect the conclusions of the Design and Access Statement.

3.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDING AREA

- 3.1 A detailed description of the appeal sites can be found in Section 2 of the SoCG.

Application A Site

- 3.2 Application Site A is located in the north east corner of Crabtree Farm. It extends to 0.94 hectares in size. It forms part of an undeveloped open field.

Application B Site

- 3.3 The red line for Application B Site encompasses the eastern section of Crabtree Farm. It extends to approximately 2.5 hectares in size. It comprises an agricultural field with strong defensible boundaries.

Application C Site

- 3.4 Application C Site is located in the north west corner of Crabtree Farm. It extends to 0.64 hectares in size and is part of the larger area of open fields with tree lined and well-defined landscape boundaries.

Application D Site

- 3.5 The red line of Application Site D encompasses the western part of Crabtree Farm. It extends to 2.29 hectares in size. It is in open field with tree lined, well-defined landscape boundaries.

Crabtree Farm

- 3.6 Crabtree Farm comprises an irregular shaped greenfield site extending to approximately 4.8 hectares. It is an agricultural / pastoral field and is consequently greenfield land in accordance with the definition of greenfield land provided by the Framework.

- 3.7 Crabtree Farm has strong boundary features. The northern boundary of the Crabtree Farm extends along the edge of the Hinckley Road. An area of trees separates the north western corner of the site from Hinckley Road. The eastern boundary of the Appeal Site adjoins the gable ends of 45 Hinckley Road, 18 and 13 Crabtree Road and 13 and 14 of Powers Road. The southern edge and eastern edge of the Appeal Site is formed by a well defined hedge boundary.
- 3.8 To the north of Crabtree Farm is ribbon residential development along Hinckley Road, which extends beyond the western edge of the site. The land to the immediate east of the site is residential in nature, with Tweeds River Play Park located to the immediate east of the Appeal Site. To the south and west of the site are a series of fields and the A47 separating the Appeal Site from Hinckley.
- 3.9 The Site is located in a sustainable location for development. This is demonstrated by the fact that the site has previously been granted planning permission for housing. Barwell has a good range of shops, services and facilities including an infant and primary school, a number of shops, including a Co-op supermarket, restaurants, public houses, a bank, medical centre and village / community hall, all of which are located within one kilometre of the Appeal Site and are therefore accessible by walking and cycling.
- 3.10 Employment opportunities are available in the industrial estate located on the north side of Mill Street, just to the north of Crabtree Farm. Higher order shops, services and employment opportunities, along with secondary school provision, can be found in Hinckley which is located approximately 2km to the south of Barwell.
- 3.11 The closest bus stops to the Appeal Site are located on Hinckley Road, approximately 200 metres from the entrance to the site, with services 43 and 158 stopping here and providing links to the centre of Barwell, Leicester, Hinckley, Nuneaton and Coventry. The closest train station is in Hinckley which provides links between Leicester and Birmingham.

4.0 PLANNING HISTORY

4.1 The Appeal Site has been subject of a number of different planning applications and appeals during the course of the last seven years. The Appeal Site's planning history is a material consideration of significant weight in the determination of the Planning Appeal. The planning history is summarised in Table 1 below with further details provided in Section 4 of the SoCG.

Table 1 – Planning Application History*

Application / Appeal Reference	Relevant Site	Description	Decision & Date
18/00279/OUT	Appeal Site (A, B, C, D)	Erection of up to 25 dwellings, provision of open space and change of use of land for new cemetery and associated shelter (Outline - access only)	Refusal (17 August 2018)
APP/K2420/W/19/3252850 (Appeal against refusal of 18/00279/OUT)			Appeal Allowed (2 July 2019)
20/01172/REM	Application Site A and B	Approval of reserved matters (appearance, landscaping, layout and scale) of outline planning permission 18/00279/OUT for residential development of 25 dwellings	Approved (30 June 2021)
19/00393/FUL	Application Site C and D	Change of use of land to a new burial ground, new access, landscaping and car parking	Approved (4 September 2019)
21/00695/FUL	Application Site A and B	Residential development of 51 dwellings with associated access and parking	Not determined
APP/K2420/W/22/3308175 (Appeal against refusal of 21/00695/FUL)			Appeal Allowed (31 March 2023)
22/01053/FUL	Application Site C and D	Proposed construction of 45 dwellinghouses with garage and associated driveway, open space, landscaping, drainage and LEAP	Permitted (6 October 2023)

**Extant permissions highlighted in green*

- 4.2 The Case Officer's report for the Appeal Scheme stated at paragraph 8.7 that due to the extant planning permissions (21/00695/FUL on the Eastern Field and 22/01053/FUL on the Western Field), *"the site is not considered to be countryside but instead, as planning permission exists for the development of the site for 96 dwellings, forms part of the built-up area of Barwell."*

5.0 THE COUNCIL'S CONSIDERATION OF THE APPLICATIONS

- 5.1 During the course of the determination period the Appellant worked closely with Officers to make revisions to the scheme to resolve concerns raised with the proposals. This resulted in Officers concluding that they would present the applications to comment with a recommendation for approval (Appendix 1) subject to securing appropriate planning obligations and the resolution of queries regarding waste collection. It was advised that:

*"Thank you for your patience while Tim and I discuss your applications at Crabtree Farm. I can now confirm that I will be seeking to present these application with a **recommendation for approval** at the August Planning Committee. The only concession I will seek from you is in regard to an off-site contribution for the casual informal open space provided around the SuDS pond on the site which has been reduced in functionality by the amendments proposed. We know you are currently overproviding by 122 sqm in this category and so will take this into account in our calculations. We will be in touch about the specific figure as soon as possible.*

Road adoption issues

While considering this application in greater detail I have come across a corporate matter that I need to bring to your attention and that requires the submission of some additional information prior to August's Planning Committee.

I believe having the whole of the site's road and footpath network in private ownership creates material planning issues and significant long-term risks to the Council and the site's future residents that must be clearly understood prior to a positive recommendation being made to committee. Moreover, the Council's scrutiny committee is already investigating the issues that derive from the adoption process of open spaces and roads and so this matter is firmly in the minds of members who are drawing information from many sources including the Competition and Markets

Authority's market study into housebuilding. Therefore, further information is required to give this application the best possible chance at Planning Committee.

The immediate issues that I foresee are that currently, HBBC waste team state they will not drive on new unadopted roads to collect household waste, which must instead be presented at the kerbside of an adopted road. They currently do not accept indemnities to manage the legal liabilities involved with driving on private roads. Private waste collection service would therefore be required on this site. In the medium to long term, I foresee challenges for residents paying high service charges for open space, roads and footpaths and private waste collection on top of their full Council tax bill. I also foresee pressure from these residents for LCC to adopt the roads when maintenance costs or issues become unmanageable and for HBBC to collect the waste from the site contrary to any policy regarding not traversing private roads.

In this regard, from you as the applicant, we will require the following to make a positive recommendation to Planning Committee:

- ***Prior to the determination of the application***, provide details of the concepts of future management and maintenance of roads and footways and private waste collection
 - *some examples of where this has been done elsewhere would be helpful, to provide reassurance of its deliverability*
 - *example costs of service charges and governance structures of management companies to avoid escalating costs*
- ***Pre-commencement conditions*** to agree full details of ongoing maintenance and management:

- *Subject to any further comments from LCC, potentially picking up the points from LCC's webpage on unadopted developments*
- *Also pick up points like evidence of sinking funds for maintenance works*
- *A condition regarding refuse vehicle and fire tender turning facilities may also be helpful*

I will also be raising these matters with both LCC and HBBC's waste team, seeking their final comments on the scheme given your decision to not get the roads adopted, ensuring they appropriately respond to the Council's above concerns and address your final position of privately maintaining the site's roads."

5.2 Dealing with the matters raised in turn:

- 1) An offsite contribution towards casual informal open space provision will be included in the S.106 and subject to the "blue pencil" clause.
- 2) It is the Appellant's view that the roads are capable of adoption. This matter is addressed by Mr Taylor's Statement of Case (CD E13). In any event, if necessary a management company could be used to collect private waste. Whilst concern is expressed about the use of a management company for open spaces, roads and footpaths and private waste collection, it is an entirely acceptable solution. In HLPC's experience most local authorities will not adopt areas of public open space and they expect a management company to be used for infrastructure such as drainage basins.
- 3) The Appellant will work with Officers to ensure any necessary provision is in the Conditions or S.106 agreement.

5.3 The applications were determined under delegated authority on 11th July 2025. A singular Case Officer's report was prepared to cover the four applications (CD D5). The Officer's report:

- i. Acknowledges that the principle of development on the wider site has been established through planning permissions 21/00695/FUL and 22/01053/FUL. The majority of pre-commencement conditions have been discharged for 21/00695/FUL, with both permissions extant.
- ii. Advises that given the extant planning permissions for the development of 96 dwellings, the Appeal Site is not considered to be "countryside" but instead part of the built-up area of Barwell.
- iii. Identified that the 'tilted' balance in Paragraph 11(d) of the NPPF is engaged.
- iv. Stated that the benefit of providing an additional 29 dwellings over and above the approved scheme is considered to attract between moderate and significant weight in the planning balance.
- v. Considered that there are considerable harms posed by poor design, which mean there are three main issues: insufficient on-site open space, waste collection issues by virtue of refuse vehicles being unable to access the substandard internal roads of the site, and potentially unsustainable management liabilities for future occupiers.
- vi. Attributed significant weight to the absence of a legal agreement covering the contributions which are identified as meet the tests for planning obligations.

5.4 This resulted in two reasons for refusal, as set out at paragraph 1.8 above. There is no objection to the principle of residential development in this location. Given that Crabtree Farm benefits from extant planning permission

the key issues to consider related to the increased number of dwellings proposed on the site.

6.0 WHEATCROFT CONSULTATION

6.1 Following the refusal of the planning applications, Reason Refusal 2, which refers to “unadoptable internal road layout”, was reviewed by the Appellants consultant team. Revisions to the layout were subsequently made in discussion with Officers of HBBC and Leicestershire County Council Highways. This resulted in a series of relatively minor changes to the scheme:

1. Bin store locations were added.
2. Plots 56-57 and plots 5-8 were substituted for plots 57 and plots 5-9 respectively.
3. In respect of roads:
 - a) A speed control bend adjacent to plots 5/57/46/11 has been added.
 - b) The length of the shared surface road has been reduced.
 - c) The speed table locations has been revised, and the length of tables has been increased to a minimum of 8 metres.
 - d) An additional speed table junction has been added opposite plot 15.
 - e) Various road dimensions have been revised and added to the road layout, including the location of dropped pedestrian crossing points and visibility splays.
 - f) A turning head has been added adjacent to plots 56 and 40.
 - g) The parking area adjacent to plots 106 and 121 has been amended.

6.2 The revised scheme following these changes is shown on the Revised Overall Site Layout Plan ref. A951 005 N (CD C8). Internal Road Layout Plan, Refuse

Vehicle Swept Path analysis and a Visibility Splays Plan were also prepared and consulted upon (CD L2-L6, CD O2-06, CD R2-R6, CD U2-U6).

- 6.3 HLPC undertook a Wheatcroft consultation on the revisions in November 2025. HBBC provided a list of all members of the public and statutory consultees who were consulted on the four applications (CD C5 and CD C6), and HLPC notified these of the consultation and invited them to comment.
- 6.4 The revised Overall Site Layout Plan (ref. A951 005 N) (CD C8) and an explanatory letter (CD C1) was sent as part of the consultation. HBBC were provided with the opportunity to review and a copy of the letter before it was issued (CD C6). Plans showing Refuse Vehicle Swept Path analysis and visibility splays were also sent to the Local Highway Authority and HBBC Refuse (CD C2 and CD C3).
- 6.5 There is an error in the Wheatcroft application cover letter (CD C1, CD C2, CD C3). It refers to the total number of dwellings across the site being 125, as oppose to 124. The plans that were consulted do, however, correctly identify 124 dwellings, including 13 dwellings on the Application C Site (23/01186/FUL).
- 6.6 Three comments were received to the Wheatcroft consultation, which included two responses from residents of Barwell and a response from Leicestershire County Council Archaeology. Redacted copies of the responses are provided at CD C4. Copies of the responses were sent to HBBC along with HLPC's conclusion as set out at paragraph 6.7 below (CD C7).
- 6.7 Following a review, it is considered that the responses do not highlight anything fundamental with the Wheatcroft consultation. The responses reiterate the comments that were previously put forward during the consideration of the four planning applications.

- 6.8 It should be noted that following the Wheatcroft consultation, an additional two dwellings are now proposed as affordable tenure rather than market tenure (plots 120 and 121). This is the only variation between the Overall Site Layout Plan subject to the Wheatcroft consultation (ref. A951 005 N) and the Overall Site Layout Plan requested to be approved through this appeal (ref. A951 005 P) (CD L1, CD O1, CD R1 and CD U1).
- 6.9 To reflect the changes to the layout following the Wheatcroft consultation, the Landscaping Plans, Planting Specification and Details and Public Open Space Plans have also been updated and are included in the lists of post-determination plans.

7.0 RELEVANT PLANNING POLICY CONSIDERATIONS

7.1 The Development Plan is the starting point for the determination of planning applications, as set-out in S.38(6) of the Planning & Compulsory Purchase Act 2004 (**'the 2004 Act'**) and paragraph 2 and 47 of the Framework. In HBBC the Development Plan consists of:

- The Hinkley & Bosworth Core Strategy 2009 (**"the CS"**) (CD B1);
- The Hinkley & Bosworth Site Allocations and Development & Management Policies DPD 2016 (**"SADMP"**) (CD B2);
- Hinckley Town Centre Area Action Plan (AAP) DPD (**"HTCAAP"**);
- The Earl Shilton & Barwell Area Action Plan 2014 (**"ESBAAP"**).

7.2 The ESBAAP has no direct relevance to the principle of the proposed development. The Appeal Site is adjacent to, but outside of the ESBAAP boundary. The Appeal Site is located outside of the HTCAAP boundary.

7.3 I set out below a summary of the principal Development Plan policies relevant to the proposed development. I also comment on the weight that can be attached to the various policies.

7.4 There are a series of planning policy documents, including the Framework, that are material considerations. These are identified below, along with my view on the weight that can be attached to these material planning considerations in the decision making process.

7.5 Given that the Appeal Sites adjoin one another and the overall proposal is an approach to the comprehensive redevelopment of the Appeal Site, the Development Plan policy position affecting each application is the same.

i) The Development Plan

Hinkley & Bosworth Core Strategy

7.6 The CS was adopted in 2009 and was prepared to provide policy guidance for the period 2006 to 2026. Relevant policies include:

- **Policy 3: Development in Barwell**
- **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**

7.7 As the CS was adopted in 2009 and was prepared prior to the publication of the Framework 2012 and its subsequent updates, it does not reflect a number of the objectives and requirements of the Framework, as explained below. The CS is an 'old style' core strategy, providing policy guidance and the identification of development needs up to 2026. Other than the identification of two Sustainable Urban Extensions (“**SUE**”), specific sites for development are not identified.

7.8 The CS spatial strategy seeks to direct growth to the most sustainable settlements in the Borough, which includes Hinkley, Earl Shilton, Burbidge and Barwell. The CS recognises that the four main settlements act together, as an 'urban area' with clear linkage between them

7.9 The CS was prepared to be in general accordance with the East Midlands Regional Plan (March 2009), which was revoked in April 2013. The East Midlands Regional Plan identified a housing requirement of 9,000 dwellings for HBBC. The East Midlands Regional Plan used 2003-based population projections to establish the housing requirement for the constituent authorities. Accordingly the development needs upon which the CS are based are

completely out of date. Furthermore, the overarching spatial strategy for development in the East Midlands Regional Plan sought to focus major new development in the Principal Urban Areas of Nottingham, Leicester and Derby, in order to promote regeneration, thereby restricting growth in the more rural parts of the region.

- 7.10 **Policy 3** identifies that Barwell is an urban area which supports Hinckley as a sub-regional centre. The policy supports the development of a minimum of 45 dwellings within the settlement boundary and allocates land for a sustainable mixed use urban extension to accommodate 2,500 dwellings and 15 hectares of employment land, neighbourhood shops, a new primary school and children's centre, GP surgery, neighbourhood policing and greenspace provision.
- 7.11 Whilst the policy seeks to direct new housing development to within the settlement boundary, or to the new SUE, it is clear there is not sufficient available urban capacity within the settlement boundary to accommodate any meaningful growth. Hence the requirement for just 45 dwellings within the settlement boundary and the reliance on the SUE for housing delivery. In any event, the housing requirement for HBBC is based on the now defunct Regional Plan, which used 2003-based household projections to determine the housing requirement. As such, the housing requirement in the CS is completely out of date. The settlement boundaries HBBC defined when adopting the CS were also based on the level of growth set for the borough by the Regional Plan and, as such, these must also be considered out of date, as they are based on out of date development needs.
- 7.12 The Appeal Site is located within the Hinckley/Barwell/Earl Shilton/Burbage Green Wedge and as such **Policy 6** is relevant. It seeks to protect the Green Wedge from unacceptable development and identifies acceptable land uses, provided the operational development associated with the use does not damage the function of the Green Wedge. The policy lists the acceptable uses as:

- 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

7.13 Policy 6 also requires that any land use or associated developments 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.

7.14 As agreed by the Inspector for Planning Appeal Ref. APP/K2420/W/22/3308175 (CD G1), the policy is worded as a permissive policy stating which use would be acceptable as opposed to specifically excluding or prohibiting uses that would not be acceptable in the Green Wedge. I accept that residential development is not identified as an acceptable land use in the Green Wedge. However, residential development need not be harmful and, therefore, unacceptable as a matter of principle within the Green Wedge. Policy 6 goes on to identify criteria against which any application must be judged and sets-out four provisions. However, the fact that the development strategy of the Core Strategy is out of date means Policy 6, as a policy important to the determination of the appeal, is out of date in accordance with the provisions of paragraph 11.d of the Framework.

- 7.15 Furthermore various planning permission have been approved by HBBC and at appeal allowing for the development of Crabtree Farm despite the Green Wedge designation.
- 7.16 **Policy 15** states that to support the provision of mixed, sustainable communities, a minimum of 2,090 affordable homes will be provided in the borough from 2006 to 2026. Policy 15 seeks the provision of 20% affordable housing on all sites in urban areas of 15 dwellings or more or 0.5 hectares or more with a tenure split of 75% for social rent and 25% for intermediate tenure.
- 7.17 **Policy 16** requires a mix of housing types and tenures to be provided on all sites of 10 or more dwellings and that new development on sites within and adjoining Hinckley, Burbage, Barwell and Earl Shilton should be a minimum net density of 40 dwellings per hectare. The policy states that, in “exceptional circumstances”, and where individual site characteristics dictate and are justified, a lower density may be acceptable.
- 7.18 Policy 16 does not reflect the guidance on “Achieving Appropriate Densities” set out in the Framework. The Framework encourages the efficient use of land and identifies a series of consideration that should be taken into account when establishing appropriate densities. Policy 16 only supports schemes with a densities of less than 40 dph in “exceptional circumstances”, an approach not found within the Framework.
- 7.19 **Policy 19** identifies standards for the provision of green space and play provision within HBBC.
- 7.20 **Policy 20** states that the Green Wedge between Hinckley and Barwell should be maintained as it plays an important environmental and landscape protection role. It also advocates that the Green Wedge is developed into a large scale recreational asset to service the Sustainable Urban Extensions and residents living in North Hinckley. The policy is consistent with paragraph 103 of the Framework, in that it seeks to enhance green infrastructure. However, the policy refers to the protection of landscape in general terms.

Protecting a landscape which is not a valued one is inconsistent with paragraph 187 of the Framework and, as such, no weight should be attached to this element of the policy.

Site Allocations and Development Management Policies (2016)

7.21 The SADDM was adopted in 2016 and identifies sites for uses such as housing, employment, retail, open space and community facilities that will deliver the aims, vision and objectives of the CS. As such, it seeks only to allocate land by reference to the outdated development requirements contained in the CS and does not, as the Framework requires, meet an up to-date development need in order to significantly boost the supply of housing. It also contains 25 development management policies which will be used to assess planning applications over the plan period.

7.22 Relevant policies include:

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM25: Community Facilities

7.23 **Policy DM1** confirms that planning applications that accord with the policies in the Local Plan will be approved without delay unless material considerations indicate otherwise. Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Council will grant permission unless material considerations

indicate otherwise. The policy therefore largely replicates the guidance in the Framework.

- 7.24 **Policy DM3** requires where new development will create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through an appropriate funding mechanism. The policy in general accords with the policies in the NPFF and can be afforded full weight.
- 7.25 **Policy DM4** states that to protect its intrinsic value, beauty, open character and landscape character the countryside will first and foremost be safeguarded from unsustainable development. I refer to the inconsistency between the Framework requirement (to protect valued landscapes and recognise the intrinsic of qualities of other areas of countryside) and the more stringent Development Plan requirement to protect all countryside in the context of the CS Policy 20 above.
- 7.26 The policy goes on to list a series of categories of development that will be considered sustainable in the countryside, subject to meeting a number of other criteria. Forms of development that the policy may consider to be sustainable in the countryside do not include new residential development unless it is for essential rural worker accommodation. Whilst the proposed residential development is not wholly in accordance with this policy, the fact that the boundaries of the countryside were based on out of date development needs in the now revoked Regional Plan means this policy carries limited weight in the decision-making process.
- 7.27 **Policy DM4** states that the countryside will be “protected” from unsustainable development, in order to protect its intrinsic value, beauty, open character and landscape character. Paragraph 187(a) of the Framework states that only valued landscapes will be protected, whilst other countryside will be “recognised” for its intrinsic character and beauty (Framework paragraph 187(b)). As the Appeal Site is not a valued landscape, it does not warrant the same level of protection as valued landscapes. Policy DM4 is placing a higher

level of protection on the countryside per se than the Framework advises. This reduces the weight that can be afforded to Policy DM4, as it is not consistent with the Framework.

7.28 **Policy DM6** seeks to conserve and enhance features of nature conservation and geological value and retain, buffer or manage favourably such features. Their removal or damage shall only be acceptable where it can be demonstrated that the proposal will result in no net loss of biodiversity. The policy is in general accordance with the provisions of the Framework and can be afforded full weight.

7.29 **Policy DM10** states that amongst other matters, development will be permitted where it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, and complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, material and architectural features. The policy is in general accordance with the design policies of the Framework, except for its reference to 'exceptional circumstances'. This reduces the weight that can be attached to this policy.

7.30 **Policy DM17** states that developments will be supported where they make the best use of existing public transport services, create accessible walking and cycling links to services and demonstrate that there will not be a significant adverse impact on highway safety or an increase in trips.

7.31 **Policy DM18** requires all new development to provide an adequate level of parking provision.

i) Material Considerations

The Good Design Guide Supplementary Planning Document

7.32 The Good Design Guide supplementary planning document (SPD) was adopted in 2020.

- 7.33 For Barwell, the design objectives are to enhance the setting of the church, to consider Victorian, Edwardian, and inter-war terraces/collections of buildings, to explore appropriate reuse for factory buildings and to address poor quality shop fronts on High Street and radial routes.

The National Planning Policy Framework

Implementation

- 7.34 The updated version of the Framework was published in December 2024 (CD A1). Guidance on the application of the Framework can be found in Annex 1 – Implementation. In summary, paragraph 231 of the Framework advises that the policies of the Framework are material considerations which should be taken into account from the day of publication. Due weight should be given to relevant policies in existing plans published prior to the publication of the Framework according to their degree of consistency with the Framework (paragraph 232). The closer the policies in the Plan to the policies in the Framework, the greater weight they may be given.
- 7.35 The CS (2009) was adopted prior to the publication of the Framework. As such the guidance at paragraph 232 of the Framework applies. The policies in the adopted Development Plan should be afforded weight based on their consistency with the policies in the Framework.

Weight attached to Draft Plans

- 7.36 Paragraph 49 of the Framework advises that decision makers may also give weight to relevant policies in the emerging Plan according to:
- a. The stage of preparation of the emerging Plan; the more advanced the preparation, the greater the weight that may be given;

- b. The extent to which there are unresolved objections to relevant policies; the less significant the unresolved objection, the greater the weight that may be given; and
- c. The degree of consistency between the relevant policies in the emerging Plan are to the policies in the Framework; the closer the policies in the emerging Plan are to the policies in the Framework, the greater the weight that may be given.

7.37 As detailed below, as the emerging Local Plan is still in the early stages of preparation (Regulation 18), I have afforded it limited weight in the determination of the Appeal.

Achieving Sustainable Development and the “Tilted Planning Balance”

7.38 The Framework advises that the purpose of the planning system is to facilitate sustainable development. The Framework identifies three objectives of sustainable development, an economic role, a social role and an environmental role. The social role of sustainable development includes providing a supply of housing that will meet the needs of future generations, and this would include the provision of affordable housing.

7.39 Paragraph 11 of the Framework advises that for decision making (unless material considerations indicate otherwise) the presumption in favour of sustainable development means:

- c) Approving development proposals that accord with an up-to-date development plan without delay; or
- d) Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. The application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.
- 7.40 Footnote 7 identifies the areas and assets of particular importance subject to the provisions of paragraph 11(d)(i). Crabtree Farm does not fall within any of the identified designations.
- 7.41 Footnote 8 advises that the policies that are most important for determining applications are out of date include situations where the Local Planning Authority cannot demonstrate a 5 year supply of deliverable housing sites, with a buffer (if applicable), and where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Delivering a Sufficient Supply of Homes

- 7.42 The Framework requires local authorities to “significantly” boost the supply of housing (paragraph 61). Relevant policies for the supply of housing land should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites (paragraph 11d and accompanying footnote 7).

Making Effective Use of Land

- 7.43 Paragraph 125 advises that planning policies and decisions should encourage multiple benefits from both urban and rural land and promote and

support the development of under-utilised land, especially if this would help to meet identified needs for housing where land supply is constrained.

7.44 Paragraph 129 states that planning decisions should support development that makes efficient use of land, taking into account:

- a) Identified needs for different types of housing and the availability of land suitable for accommodating it;
- b) Local market conditions and viability;
- c) The availability and capacity of infrastructure and services, their potential for improvement and the scope to promote sustainable travel modes;
- d) The desirability of maintaining an area's prevailing character and setting; and
- e) The importance of securing well-designed, attractive and healthy places.

Promoting Sustainable Transport

7.45 In assessing development proposals, local planning authorities should ensure that:

- Sustainable transport modes are prioritised;
- Safe and suitable access to the site can be achieved;
- The design of streets, parking areas, other transport elements reflect current national guidance, including the National Design Guide and the National Model Design Code; and
- Any significant impacts on the transport network in terms of capacity/congestion, or on highway safety, can be mitigated.

- 7.46 Paragraph 116 of the Framework sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe.

Achieving Well-designed Places

- 7.47 Section 12 of the Framework sets out policies relating to good design. It sets out that local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, but in the absence of locally produced design guides, these national documents can be used.
- 7.48 Paragraph 135 sets out that planning decisions should ensure that developments:
- a) Will function well and add to the overall quality of the area over the lifetime of the development;
 - b) Are visually attractive as a result of good architecture, layout and landscaping;
 - c) Are sympathetic to local character and history;
 - d) Establish or maintain a strong sense of place, by using the arrangement of streets, spaces, building types and materials;
 - e) Optimise the potential of sites to deliver an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
 - f) Create safe, inclusive and accessible homes and places which promote health and well-being.

- 7.49 Paragraph 139 sets out that development which is not well designed should be refused, especially where it fails to reflect local design policies and the National Design Guide and National Model Design Code. Significant weight should be given to development which reflects local design policies and government guidance and/or outstanding/innovative and sustainable designs.

a) Five Year Housing Land Supply

- 7.50 HBBC's most recent Five Year Housing Land Supply Statement 2023-2028 (CD F1) advises that at 1 April 2023 there is a 5.6 year housing land supply. This calculation is out of date. It uses the previous version of the Standard Method housing requirements, which required the development of 433dpa. The revised Standard method housing figure for Hinkley and Bosworth is 649 dpa.
- 7.51 HBBC's most recent five year housing land position is reflected in appeal decision APP/K2420/W/24/3348387 (13 March 2025) (CD G2), which states that the Council confirms it can only demonstrate a 3.55 year supply. This calculation is based on the methodology applied in the Framework including the application of the 5% buffer. Therefore, the Appeal Scheme should be determined in accordance with the guidance contained in Paragraph 11.d of the Framework.

b) Affordable Housing Need

- 7.52 The most recent Leicester & Leicestershire Housing & Economic Needs Assessment ("**HENA**") (dated 2022) (CD B7) concludes that the total affordable housing need in HBBC is significant. It establishes that the total affordable housing need in the Borough is 498 dwellings per annum (dpa), comprising 321 dpa affordable rent and 177 dpa affordable ownership. This represents 75% of HBBC's annual housing requirement of 663 dpa, as calculated by the Standard Method.

- 7.53 Whilst the HENDA is now three years old it is the most up to date assessment of affordable housing need available.

c) Hinckley & Bosworth Local Plan Review (2024 – 2045)

- 7.54 HBBC undertook Regulation 19 – Pre-Submission Consultation, on the emerging Local Plan in February and March 2022 (CD B4). A copy of the emerging Local Plans Proposals Map – Barwell and Earl Shilton insert, is provided at CD B10. The Appeal Site is identified as being within the revised settlement boundary of Barwell and removed from the Green Wedge. Draft Local Plan policy HO04 – Housing Density sets out a requirement for a net density of 45dph, an increase on the current policy requirement of 40dph.
- 7.55 HBBC undertook a further Regulation 18 Consultation on the emerging Local Plan in October-November 2025 (CD B6). This consultation related only to specific new or updated policies and site allocations.
- 7.56 The consultation included the proposal to increase the overall provision of housing in the Local Plan period to 15,603, the equivalent of dpa. The final list of identified housing and employment allocations will be set out in the Regulation 19 pre-submission version of the Local Plan, anticipated for Spring 2026. Adoption of the Local Plan Review is not anticipated until 2027 (accordingly to Local Development Scheme, March 2025).
- 7.57 Given that the Local Plan is in the early stages of the plan making process, and subject to unresolved objections, it can be afforded limited weight and decision making process at the present time. It is, however, an indication of the direction of travel of HBBCs policies and it identifies the significant pressure for additional housing in HBBC.

8.0 CASE FOR THE APPELLANT

8.1 Planning Law requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise. In this case the Development Plan comprises the CS 2009 and the SADMP 2016. There are a series of material considerations that I identify in Section 5 of the SoC.

8.2 I set out below a review of the compatibility of the Appeal Scheme with the policies in the Development Plan before reviewing the implications of the material planning considerations for the decision making purposes.

8.3 It is understood that HBBC do not object to the principle of residential development on the Appeal Site. However, given that the site is not allocated for housing in the Development Plan I address this matter in my SoC.

8.4 I then address what I understand to be the key considerations in the determination of the Applications Schemes based on the reasons for refusal. In doing so I draw upon the conclusions of the supporting Statements of Case and Section 106 note submitted by the Appellant.

A) Section 38(6) Development Plan Review

8.5 The SADMP Policies Map (CD B3) identifies the extent of the Barwell settlement boundary and the designations that are applied to the Appeal Sites. The Appeal Site is located adjacent to, but outside of, the settlement boundary of Barwell and is, therefore, classed as being within the “countryside” for decision-making process by the Development Plan. It is also located within a “Green Wedge”.

i) Core Strategy Policies

8.6 **CS Policy 6 – Hinckley/Barwell/Earl Shilton/Burbage Green Wedge**, seeks to encourage uses in the Green Wedge that provide appropriate

recreational facilities within easy reach of urban residents and promote the positive management of land to ensure the Green Wedge remains or is enhanced as an attractive contribution to the quality of life of nearby urban residents. It identifies six different land uses that are acceptable in the Green Wedge, provided the operational development associated with the uses does not damage the function of the Green Wedge.

- 8.7 These uses do not include residential development. However, the policy does not seek to prevent other forms of development in principle. It includes criteria that development proposals in the Green Wedge should be judged against. Indeed, this is noted by the previous Crabtree Farm Appeal Inspector at Paragraph 22 of the Inspectors Decision (APP/K2420/W/19/3222850) (CD G3), where it is advised that whilst residential development is not listed in Policy 6 as a use considered as being acceptable within the Green Wedge, the policy does not necessarily preclude other types of development. Rather it is to be considered against the four criteria within the policy.
- 8.8 As a matter of fact, the Appeal Scheme would represent a physical incursion into the Green Wedge that would result in some harm, resulting in a conflict with Policy 6. However, this needs to be considered in light of the fact that the Appeal Sites already have the benefit of planning permission for 96 dwellings, which similarly would impact on the Green Wedge and establishes the principle of residential development across the Appeal Sites.
- 8.9 There are a series of policies and objectives included in the CS that support the grant of planning permission:
- 8.10 ***Spatial Objective 5 – Housing for Everyone***, advises that it is a spatial objective to ensure that residents of the Borough 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. The proposed development will deliver market and affordable housing next to the urban area (paragraph 3.1 of the CS confirms that the main urban

area comprises Hinckley, Burbidge, Barwell and Earl Shilton) helping to ensure that residents of the Borough have access to a house.

- 8.11 **Policy 3 – Development in Barwell**, advises that a key aim in Barwell is to encourage prospering households to move into and stay in the area. To support this, a minimum of 45 dwellings will be delivered within the settlement boundary of Barwell, and a Sustainable Urban Extension of 2,500 dwellings is directed towards the edge of the settlement.
- 8.12 Whilst the Sustainable Urban Extension has a resolution to grant outline planning permission (dating back to March 2015) the S.106 remains unsigned. The live application (12/00295/OUT) has recently been subject to revised plans and re-consultations although timescales for its determination and the future Reserved Matters application are unclear. The Residential Land Availability Monitoring Statement 1st April 2021 to 31st March 2022 advises at paragraph 2.30 that there is not a realistic prospect of the Barwell SUE delivering housing within the next five years. As a consequence, the SUE has provided no houses to assist in encouraging prospering households to move into and stay in the area and support the growth of Barwell generally, and will not do so for at least another five years.
- 8.13 The Appeal Scheme will deliver 124 dwellings in a sustainable location helping to address the objectives of Policy 3. Whilst the Appeal Site lies outside of the Barwell settlement boundary development is required beyond the Barwell settlement boundary to meet HBBC's housing requirement and to address HBBC's five year housing land supply shortfall. This is demonstrated by the fact that HBBC are preparing a new Local Plan that includes the Appeal Site within the settlement boundary of Barwell.
- 8.14 **Policy 15 – Affordable Housing**, requires sites of 15 dwellings / 0.5 hectares or more at Barwell to provide 20% affordable housing. A total of 124 dwellings is proposed across the Site as a whole. This results in a requirement for 25 affordable dwellings (24.8 rounded up). 26 affordable properties are, however, proposed. This approach has been adopted as the East Field and West Field

are subject to separate S.106 agreements. The two planning applications in the East Field proposed the development of 67 dwellings in combination. A policy compliant amount of affordable housing on the East Field is 13.4 (14 rounded up). The two planning applications in the West Field proposed the development of 57 dwellings in combination. A policy compliant amount of affordable housing on the West Field is 11.4 (12 rounded up). The location of the proposed affordable plots is shown on the Revised Overall Site Layout Plan (ref. A951 005 P) (CD L1, CD O1, CD R1, CD U1). It is, however, envisaged that the S.106 will require the submission of an affordable housing scheme to fix the location and type of the affordable houses. The schemes will therefore be in conformity with the provisions of Policy 15. In addition, the provision of affordable housing in this case is of material consideration of significant weight in support of the grant of planning permission given the pressing need for affordable housing within the Borough.

- 8.15 ***Policy 16 - Housing Density, Mix and Design***, requires a mix of house type and tenures to be provided on all sites of 10 or more dwellings. Schemes within and adjoining Hinckley, Burbidge, Barwell and Earl Shilton should achieve a minimum net density of 40 dph. The average net density across the four applications is 38 dph. The Appeal Scheme is therefore, broadly in accordance with the 40dph minimum density provision. The net density, and extent of the net developable area in this instance, reflects the character of the wider area and allow for the creation of areas of public open space and green infrastructure in and around the Appeal Sites. The density proposed across Crabtree Farm as a whole, better reflects the policy requirements of Policy 16 than the previously approved schemes. The applications make the most efficient use of land, in accordance with the provisions of the Framework. The fact that an increased number of units have been provided should be actively supported.
- 8.16 ***Policy 19 – Green Space and Play Provision***, identified standards for the amount of green space and play provision within the Borough. The first reason for refusal identifies that the applications are contrary to Policy 19. Mr Ridgeway's Statement of Case (CD E11) sets out details of the proposed on-

site open space provision which is mainly concentrated to the Western Field (23/01186/FUL; 23/01177/FUL), with financial contributions towards off-site provision proposed to be provided via the applications for the Eastern Field (23/01184/FUL; 23/01175/FUL). This approach has been previously agreed with HBBC. Mr Arrowsmith's Section 106 Note (CD E14) sets out how this will be secured via the S106s. A CIL Compliance Statement will be submitted as a Core Document once received from HBBC. On this basis it is not considered that a conflict with Policy 19 exists.

ii) Site Allocations and Development Management Policies DPD Policies

- 8.17 **Policy DM4** seeks to safeguard the countryside from “unsustainable” development, with the countryside defined as land beyond the defined settlement boundary. The policy lists forms of development that are considered to be “sustainable” within the countryside. Housing development is not identified as a sustainable use within the countryside. However, no conflict with Policy DM4 is identified, given the extant permissions for the Appeal Site. This is supported by the Case Officer's report for the Appeal Scheme (CD D5), which states that *“the land is no longer classified as countryside but instead forms part of the settlement of Barwell”*.
- 8.18 **Policy DM3 – Infrastructure and Delivery**, advises that when new developments create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through the appropriate funding mechanism. The first reason for refusal identifies that the applications are contrary to Policy DM3. However,
- 8.19 As set out in Mr Hunter's Statement of Case (CD E12), the Appellant is of the view that the Education and NHS obligations requested by HBBC are not CIL compliant. The S.106 agreements that will be provided with the appeal include all requested obligations. They also include a “blue pencil clause” allowing for

these obligations to be removed if the Inspector concludes they are not CIL complaint.

- 8.20 ***Policy DM6 – Enhancement of Biodiversity and Geological Interest***, requires major developments to include measures to deliver biodiversity net gains and opportunities to restore, enhance and create valuable habitats, ecological networks and ecosystem services. The policy does not, however, require 10% biodiversity net gain. The applications are exempt from the legislative requirement for 10% biodiversity net gain, given the date of submissions.
- 8.21 ***Policy DM10 – Development and Design***, states that, amongst other matters, development will be permitted where it compliments or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. Other requirements are also referenced, including the incorporation of high quality landscaping, electric/low emission charging points, natural surveillance measures and avoiding significant adverse impacts on the amenity of nearby occupiers and residents.
- 8.22 The second reason for refusal identifies that the applications are contrary to Policy DM10. However, as set out in the Mr Ridgeway's Statement of Case (E15), the Appeal Schemes are of a high-quality design. All four schemes work in conjunction with one another and individually and will facilitate the delivery of much needed high quality housing. Therefore, no conflict with Policy DM3 exists.
- 8.23 ***Policy DM17 – Highways and Transportation***, states that, amongst other things, development proposals will be supported where they seek to make the best use of existing public transport services, seek to ensure that there is convenient and safe access for walking and cycling, and demonstrate that there is not a significant adverse impact on highway safety.

- 8.24 As detailed in Section 7, revisions to the schemes following determination of the applications have been made in order to address the issues raised relating to the internal road layout in the second reason for refusal. It is the Appellant's view that the internal road layout is of adoptable standard (this is confirmed in the Statement of Case of Mr Taylor. Refuse Vehicle Swept Path analysis demonstrates that the site can be served by refuse vehicles.

Conclusions on Compatibility with the Development Plan

- 8.25 As detailed above, it is my view that there is no conflict with the majority of the policies in the Development Plan. The Appeal Scheme would, however, as a matter of fact constitute a physical incursion into the Green Wedge that would result in some harm, bringing the development into conflict with aspects of Policies 6 and 20 of the CS. The development would also conflict with policy DM4 of the SADMP, as residential development is not identified as a 'sustainable' form of development within the countryside. However, the limited harm arising from this conflict must be considered in the context of material considerations. There are a number of significant material considerations that support the grant of planning permission. This includes the fact that the Appeal Site already has the benefit of planning permission for the development of a total of 96 dwellings. There has been no change to the Development Plan position since these decisions were made.

B) Material Planning Considerations

- 8.26 HBBC and the Appellant agree that the Council cannot demonstrate a five year housing land supply and due to these circumstances, the tilted balance at paragraph 11(d)(ii) of the Framework is engaged. Footnote 7 provides a closed list of the policies within the Framework that protect 'areas or assets of particular importance' referred to in Paragraph 11.d)i. The Appeal Scheme is not subject to any of these designations.
- 8.27 This means that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the

benefits, when assessed against the policies in the Framework taken as a whole.

Material Planning Considerations

8.28 I set out below the material considerations that are benefits of the proposed development and the weight that I believe can be afforded to each benefit in the tilted planning balance exercises.

1. Housing Delivery

8.29 Paragraph 61 of the Framework advises that it is a government objective to significantly boost the supply of homes. The proposed development will contribute an additional 124 dwellings to the supply of housing in the Borough, which will help meet the 5 year housing land supply shortfall and boost the supply of housing.

8.30 HBBC's ability to address the five-year housing land supply shortfall in the short term this is clearly affected by the fact that the Local Plan review is in its early stages. HBBC published its most recent Local Development Scheme in March 2025. The timetable for the future stages of preparation of the replacement Local Plan set out in the LDS is confirmed below.

Timetable	
Stage	Target date
Update to evidence to reflect new NPPF/NPPG	September 2024 – December 2025
Public consultation on further Draft Plan (Regulation 18) for 6 weeks	September 2025 - October 2025
Public consultation on submission Draft Plan (Regulation 19) for 6 weeks	March – April 2026
Submission to Secretary of State (Regulation 22)	November 2026
Estimated date for examination	Early 2027
Programmed date for adoption	Late 2027

- 8.31 The Local Plan is expected to be adopted until late 2027. The emerging Local Plan does not, therefore, present a means of addressing the housing shortfall in the foreseeable future. The only realistic way to increase the supply of housing delivery in the short term is through the grant of planning permissions.

2. Affordable Housing Provision

- 8.32 CS Policy 15 advises that in order to support the provision of mixed, sustainable communities a minimum of 2,090 affordable homes will be provided in the Borough from 2006 to 2026, the equivalent of 104.5 dpa. This figure dates back to the adoption of the CS in 2009. There is updated information on the need for affordable housing in HBBC. The HENA (2022) identifies a need of 498 dwellings per annum (dpa).
- 8.33 Table 3 – Annual Affordable Housing Completions (1st April 2006 – 31st March 2023) of the Residential Land Availability Monitoring Statement, sets out the number of gross affordable housing completions between 2006/07 and 2022/23. There has been an average of 106.6 gross affordable housing completions to date.
- 8.34 To meet the current estimated need for affordable housing provision of 498 dpa, the current average rate of affordable housing delivery will need to increase by 391 affordable dwellings per annum.
- 8.35 The Appeal Scheme will provide a policy-compliant level of affordable housing, equating to 26 dwellings across the whole site (14 on the East Field and 12 on the West Field), and the S.106 will require the submission of an affordable housing scheme to fix the location and type of the affordable houses. Against a pressing need for affordable housing, the delivery of 26 affordable dwellings represents a valuable contribution to meeting that need.
- 8.36 In the previous Crabtree Farm appeal decision (APP/K2420/W/19/3222850), the Inspector concluded at Paragraph 29 that provision of up to 25 dwellings

at the time of pressing need, up to five 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. I also afford substantial weight to the provision of market and affordable housing.

3. Economic Benefits

8.37 The proposed development would result in job creation through the construction of the properties. It would also result in additional expenditure in local shops from the residents of the development. It therefore contributes towards the economic dimension of sustainable development.

8.38 In the previous Crabtree Farm appeal (APP/K2420/W/19/3252850) the Inspector concluded that the “economic benefits carried significant positive weight (Paragraph 30).” I am of the view that significant positive weight should also be attached to the economic benefits of the Appeal Scheme given that the number of houses proposed are the same.

4. Planning History

8.39 Significantly, Crabtree Farm has the benefit of two implemental planning permissions that will allow for the development of 96 dwellings across the site. As such, the principle of residential development on this site has already been established. Policy 16 requires sites to achieve a net density of 40dph, and emerging Local Plan policy HO04 – Housing Density requires a net density of 45dph. The four planning applications as a whole propose a scheme with a net density of 38 dph. This will help ensure the development of the site will help to deliver this policy aspiration and make the best use of the site in accordance with the guidance contained within the Framework.

C) Addressing the Council's Reasons for Refusal

i) The acceptability of the S.106 package

8.40 Subject to receipt of the HBBC CIL Compliance Statement, the Appellant accepts all requested planning obligations are CIL compliant, with the exception of the Education and Healthcare contributions.

8.41 A separate Statement of Case has been prepared by Mr Ben Hunter of EFM to address this matter (CD E12). In summary it concludes that HBBC and the Appellant are in agreement with regards to the approach to Early Years provision, primary school provision, and SEN provision.

8.42 The area of dispute relates to the appropriateness of a development of this size and scale paying for additional secondary and sixth form places when the local school to the development has significant surplus capacity far exceeding the combined yield of these four developments.

8.43 On the basis of the above, if there is currently more than sufficient surplus capacity for the pupils from this development in the catchment area school, and the two schools that serve Barwell are forecast to be under capacity calculations, then there is no justification for planning obligations.

8.44 In terms of the Health contribution Mr Hunter concludes that the Health contributions are unnecessary, because there is capacity available to serve this development, making the request inappropriate and not CIL compliant.

ii) The adoptability of roads

8.45 Refusal Reason 2 suggests that the roads are unadoptable. Revisions have been made to the Appeal Scheme to address HBBC's issue with the adoptability of the roads. These changes have been consulted on using Wheatcroft consultation.

8.46 The Appellant's Highways Consultant, Mr Taylor of Savoy Consulting, has produced a Statement of Case (CD E13) that it is his professional opinion that roads are capable of adoption. It is the Appellant's intention to agree this with HBBC and Leicestershire County Council Highways prior to the appeal Hearing. If this is not possible the SoCG will be updated accordingly.

8.47 In any event, it is not necessary for the internal road network to be adopted. The management of the internal road network and waste collection could be addressed through the use of management company.

iii) The acceptability of the proposed design and layout

8.48 Refusal Reason 2 states that when taken together as a whole, the revised layout and increased density (compared to the previously approved schemes) results in poor design by "virtue of an unadoptable internal road layout" and a lack of usable open space waste collection issues by virtue of refuse vehicles being unable to access the substandard internal roads of the site, and potentially unsustainable management liabilities for future occupiers.

8.49 Policy 16 of the Core Strategy requires schemes of this nature to be developed at 40dph. The density of the combined Appeal Scheme is 38dph. The density levels proposed is in broad accordance with policy.

8.50 As referred to above, it is the Appellant's position that the internal roads can be adopted. This resolves the waste collection issues referred to in the condition.

8.51 The areas of public open space proposed in the Appeal Scheme are in broadly the same position as the approved applications. This can be seen through a comparison of the Overall Site Layout Plan (ref. A951 005 P) (CD L1, CD O1, CD R1, CD U1) and the currently approved site layout plans for planning permissions 21/00695/FUL (CD G4) and 22/01053/FUL (CD D7). This undermines HBBCs suggestion that there is a lack of useable open space. Mr

Ridgeway's Statement of Case (CD E11) sets out details of how a sufficient amount of open space will be provided through the Appeal Scheme.

- 8.52 In terms of the design of the scheme generally, Mr Ridgeway's Statement of Case (CD E11) confirming in his professional opinion the density levels proposed are appropriate, sufficient open space is acceptable, and that the scheme accords with local and national policy on good design.

9.0 CONCLUSIONS

- 9.1 Section 38(6) of the Planning & Compulsory Purchase Act 2004 and Section 70(2) of the Town & Country Planning Act 1990 require that the Appeal should be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 9.2 This Statement of Case has set out how the reasons for refusal are addressed through the appeal submission.
- 9.3 The Framework is an important material consideration. In this case significant relevant policies of the Development Plan are out of date. They were based on what are now completely out of date development needs contained in the East Midlands Regional Plan (founded on an evidence base that included 2003 based household projections). In addition, policies that are most important for determining the appeal are deemed out of date in the absence of a 5 year housing land supply. Accordingly, and for each of those reasons, the tilted balance in paragraph 11(d) of the Framework is engaged, meaning that planning permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
- 9.4 In this particular case there are a substantial number of benefits to which significant weight should be given in the decision-making process. These benefits are set out below:
- i) There is a significant shortfall in the supply of land for housing, and there is no realistic prospect of rectifying that shortfall through the Development Plan process in the foreseeable future. It is also the case that rectifying that shortfall will require the use of greenfield sites outside of the existing settlement boundaries.
 - ii) There is a significant demand for affordable housing. The development will provide 26 much needed affordable houses.

- iii) The implementation of the Appeal Scheme will create construction jobs as the houses are built and will increase expenditure in the local economy at the time of the occupation of the dwellings.
- iv) The Appeal Site is in close proximity to a range of local services meaning that sustainable modes of transport can be used and represent realistic alternatives to the motor car, helping to reduce the number and lengths of journeys undertaken by private motor car.
- v) The Appeal Site has previously been granted planning permission at appeal for the development of 96 dwellings. The principle of the development of the site for housing has been established in the same policy context.
- vi) The Regulation 19 consultation draft Local Plan proposed removing the Green Wedge designation from the Appeal Site and its inclusion within the settlement boundary. This would support the grant of planning permission once the Plan is adopted. Whilst subsequent Regulation 18 consultations have not defined revised settlement boundaries for any settlements, this would represent a step change to the position in the current Development Plan. Notwithstanding this, the emerging Plan can be afforded little weight in the decision making process given its stage in the preparation process.

9.5 HBBC's reasons for refusal have been addressed through this appeal submission, including through revisions to the Scheme (which have been subject to a Wheatcroft consultation) and through accompanying technical evidence.

9.6 The harm generated by the Appeal Schemes is limited. As a matter of fact, there would be built development within a designated Green Wedge and in the countryside. However, the principle of residential development is already established across the Appeal Site by virtue of extant planning permissions.

- 9.7 The development proposal is situated at one of the settlements where development is expected to be focused in the adopted and emerging Plans. Indeed, the Appeal Site is included within the settlement boundary of Barwell in Regulation 19 version of the draft Local Plan, which would support its development for housing by establishing a positive policy context.
- 9.8 HBBC Officers were intending to take the scheme to Planning Committee with a recommendation for approval, subject to points of clarity. The Appellant is, however of the view that the education and healthcare contributions are not CIL compliant. As such they requested that the applications were refused so this position could be tested at appeal. This is the focus of the appeal.
- 9.9 The S.106 includes the requested Education and Health obligation alongside a blue pencil clause allowing for them to be removed is the Inspector finds that they are no CIL compliant. This matter is addressed in the Statement of Case of Mr Hunter (E16).
- 9.10 The Education contribution area of dispute relates to the appropriateness of a development of this size and scale paying for additional secondary and sixth form places when the local school to the development has significant surplus capacity far exceeding the combined yield of these four developments. If there is currently more than sufficient surplus capacity for the pupils from this development in the catchment area school, and the two schools that serve Barwell are forecast to be under capacity calculations, then there is no justification for planning obligations.
- 9.11 In terms of the Health contribution Mr Hunter concludes that the Health contributions are unnecessary, because there is capacity available to serve this development, making the request inappropriate and not CIL compliant.
- 9.12 Drawing the above together, the harm generated by the Appeal Schemes falls well short of outweighing the benefits. Accordingly, it is respectfully requested the four appeals are allowed.

**APPENDIX 1 :
EMAIL FROM CASE OFFICER
NOTING RECOMMENDATION
FOR APPROVAL**

Lauren McCullagh

Subject: RE: Crabtree Farm 23/01175/FUL etc

From: Edward Stacey <Edward.Stacey@hinckley-bosworth.gov.uk>

Date: Friday 4 July 2025 at 11:30

To: David Thonton-Baker <davidbaker@redboxsecurities.com>

Cc: Tim Hartley <Tim.Hartley@hinckley-bosworth.gov.uk>

Subject: RE: Crabtree Farm 23/01175/FUL etc

Hi David,

Thank you for your email and I'm sorry to hear we can't find a way forwards more positively. Can you please clarify which contributions you do not consider to be CIL compliant so that this can be narrowed down in our report / reason for refusal? It would help make the appeal process simpler for all involved.

It will take us a few days to get this refusal prepared, can you please agree a final extension of time for all four applications to Friday 11 July?

Kind regards,

Ed Stacey MRTPI

Planning Manager (Development Management)

Tel: 01455 255918

Email: edward.stacey@hinckley-bosworth.gov.uk

Web: www.hinckley-bosworth.gov.uk

Hinckley Hub, Rugby Road, Hinckley, Leics LE10 0FR

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From: David Thonton-Baker <davidbaker@redboxsecurities.com>

Sent: 04 July 2025 11:22

To: Edward Stacey <Edward.Stacey@hinckley-bosworth.gov.uk>

Subject: Re: Crabtree Farm 23/01175/FUL etc

Hi Edward

Thank you for the time you have taken this week reviewing our applications and deciding that you will be seeking to present this application with a **recommendation for approval**. Your assistance in moving this application forward has been appreciated.

My concern that some of the S106 contributions are not CIL compliant has not been address. Having given the matters some considerable thought, and taken advise, I cannot accept these contributions given the level of money being sought. The contributions have not been properly justified in my view. If we are unable to agree that these contributions are removed, I request that the applications are refused. This is not a decision I have taken lightly.

We intend appeal this outstanding point.

I would request that the refusal notice is issues within the next couple of days.

Regards

David

From: Edward Stacey <Edward.Stacey@hinckley-bosworth.gov.uk>
Date: Thursday 3 July 2025 at 13:07
To: "davidbaker@redboxsecurities.com" <davidbaker@redboxsecurities.com>
Cc: "davidbaker@redboxsecurities.com" <davidbaker@redboxsecurities.com>, Tim Hartley <Tim.Hartley@hinckley-bosworth.gov.uk>
Subject: Crabtree Farm 23/01175/FUL etc

Dear David,

Thank you for your patience while Tim and I discuss your applications at Crabtree Farm. I can now confirm that I will be seeking to present these application with a **recommendation for approval** at the August Planning Committee. The only concession I will seek from you is in regard to an off-site contribution for the casual informal open space provided around the SuDS pond on the site which has been reduced in functionality by the amendments proposed. We know you are currently overproviding by 122 sqm in this category and so will take this into account in our calculations. We will be in touch about the specific figure as soon as possible.

Road adoption issues

While considering this application in greater detail I have come across a corporate matter that I need to bring to your attention and that requires the submission of some additional information prior to August's Planning Committee.

I believe having the whole of the site's road and footpath network in private ownership creates material planning issues and significant long-term risks to the Council and the site's future residents that must be clearly understood prior to a positive recommendation being made to committee. Moreover, the Council's scrutiny committee is already investigating the issues that derive from the adoption process of open spaces and roads and so this matter is firmly in the minds of members who are drawing information from many sources including the [Competition and Markets Authority's market study into housebuilding](#). Therefore, further information is required to give this application the best possible chance at Planning Committee.

The immediate issues that I foresee are that currently, HBBC waste team state they will not drive on new unadopted roads to collect household waste, which must instead be presented at the

kerbside of an adopted road. They currently do not accept indemnities to manage the legal liabilities involved with driving on private roads. Private waste collection service would therefore be required on this site. In the medium to long term, I foresee challenges for residents paying high service charges for open space, roads and footpaths and private waste collection on top of their full Council tax bill. I also foresee pressure from these residents for LCC to adopt the roads when maintenance costs or issues become unmanageable and for HBBC to collect the waste from the site contrary to any policy regarding not traversing private roads.

In this regard, from you as the applicant, we will require the following to make a positive recommendation to Planning Committee:

- **Prior to the determination of the application**, provide details of the concepts of future management and maintenance of roads and footways and private waste collection
 - some examples of where this has been done elsewhere would be helpful, to provide reassurance of its deliverability
 - example costs of service charges and governance structures of management companies to avoid escalating costs
- **Pre-commencement conditions** to agree full details of ongoing maintenance and management
 - Subject to any further comments from LCC, potentially picking up the points from [LCC's webpage on unadopted developments](#)
 - Also pick up points like evidence of sinking funds for maintenance works
 - A condition regarding refuse vehicle and fire tender turning facilities may also be helpful

I will also be raising these matters with both LCC and HBBC's waste team, seeking their final comments on the scheme given your decision to not get the roads adopted, ensuring they appropriately respond to the Council's above concerns and address your final position of privately maintaining the site's roads.

We look forward to working with you on these issues and progressing the application positively to Planning Committee.

Kind regards,

Ed Stacey MRTPI

Planning Manager (Development Management)

Tel: 01455 255918

Email: edward.stacey@hinckley-bosworth.gov.uk

Web: www.hinckley-bosworth.gov.uk

Hinckley Hub, Rugby Road, Hinckley, Leics LE10 0FR

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