



# Planning Statement

Land off Bosworth Lane,  
Newbold Verdon

Bloor Homes

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**Prepared by:**

Richard West

BA (Hons) MRTPI

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## List of Appendices

- 1) Appeal Ref: APP/K2420/W/23/3331081 – Brascote Lane, Newbold Verdon
- 2) Appeal Ref: APP/K2420/W/23/3330774 – Desford Lane, Ratby
- 3) Appeal Ref: APP/K2420/W/22/3301735 – Land off Sketchley Lane, Burbage
- 4) Appeal Ref: APP/K2420/W/17/3188948 – Land east of The Common, Barwell
- 5) Appeal Ref: APP/K2420/W/20/3262295 – Wykin Lane, Stoke Golding
- 6) Appeal Ref: APP/K2420/W/23/3331081 – Hunts Lane, Desford
- 7) Local Education Authority letter

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# 1. Introduction

- 1.1 Cerda Planning Limited has been instructed by Bloor Homes (East Midlands) to prepare an outline planning application (access only) for erection of up to 200 dwellings, a community health and well-being hub (Use Class E(e)) or community shop (Use Class E(a)) of up to 108 sqm gross external area and provision of up to 0.5 hectares of school playing fields and sport pitches, together with landscaping, open space, infrastructure and other associated, on Land off Bosworth Lane, Newbold Verdon.
- 1.2 The site is located within the administrative boundary of Hinckley and Bosworth Borough Council. The site is not allocated in the adopted Local Plan or emerging Local Plan.
- 1.3 This statement provides a description of the site, planning history, and the development proposals. The relevant policies of the adopted plan are set out along with other material planning considerations including the National Planning Policy Framework (NPPF) (2024).
- 1.4 The statement continues to set out the main issues and assesses how the proposal accords with the policies of the development plan and other material planning considerations, and requirements of the outline planning permission.
- 1.5 Having assessed the proposal against current local and national policies, and material planning considerations, conclusions are drawn. The conclusions indicate that the proposed development has conflicts with policies of the Development Plan due to non-allocation of this site and these matters are to be weighed in the planning balance.
- 1.6 The adopted policy is out-of-date, and the Council are presently unable to demonstrate a five-year supply of deliverable housing sites. Therefore, the planning balance is to be undertaken with the 'tilted balance' engaged. The

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material planning considerations and benefits of the proposals outweigh any harms and therefore the application should be granted permission without delay.

1.7 The rationale behind the proposal is provided in this statement and in conjunction with the other documents submitted with the application. The documents include the following:

- Plans
  - Site Location Plan (1:1250 or 1:2500)
  - Illustrative Development Framework
  - Parameter Plans
  - Illustrative Landscape Strategy
  - Site Access Plan
- Affordable Housing Statement (part of Planning Statement)
- Agricultural Land Classification Assessment
- Air Quality Assessment
- Arboricultural Impact Assessment
- Archaeological Desk-based Assessment
- Biodiversity Net Gain Assessment
- Design and Access Statement
- Energy/Sustainability Framework Report
- Flood Risk Assessment and Drainage Strategy
- Heritage Assessment
- Landscape and Visual Impact Assessment
- Mineral Safeguarding Assessment
- Noise Impact Assessment
- Planning Statement
- Preliminary Ecological Appraisal
- Site Investigation (Phase 1)
- Statement of Community Involvement
- Transport Assessment
- Travel Plan

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## 2. Site Description

- 2.1 The site is located within Hinckley and Bosworth Borough Council as the local planning authority and Leicestershire County Council as the Local Highway Authority, Lead Local Flood Authority, Local Education Authority and Mineral Planning Authority.
- 2.2 The site extends to approximately 8.38ha, comprising a parcel of agricultural land located to the northwest of Newbold Verdon, adjoining the existing built edge of the settlement. The village lies approximately 4 miles to the east of Market Bosworth, 6 miles north of Hinckley and 10 miles to the west of Leicester. The location of the site can be seen in the below extract from the Amenities and Connectivity Plan.
- 2.3 The Site is bounded by Bosworth Lane (B585) to the northwest, further agricultural land to the southwest, and an existing hedgerow and tree belt adjoining Newbold Verdon Primary School playing fields to the south east. Trees and hedgerows border the Site to the northeast, beyond which lies existing residential development and a new area of development currently under construction. The residential development to the northeast comprises two previous phases of residential development by Bloor Homes; Phase 1 in 2011 and Phase 2 in 2020, see Planning History below for further details.
- 2.4 The Site benefits from a variety of facilities and services located within Newbold Verdon, with additional amenities located in Market Bosworth and Leicester City Centre. A table with a summary of access to local services and amenities can be seen below, for further details please see the Transport Assessment.

**Table 2.3 Summary of Local Services and Amenities**

Service/Amenity	Distance		Walking Time		Threshold Classification	
	Moat Close	PRoW S19	Moat Close	PRoW S19	Moat Close	PRoW S19
Newbold Verdon Medical Practice	660m	1.22km	8-minutes	14-minutes	Acceptable	Over Threshold
Lotus House Takeaway	650m	1.1km	8-minutes	13-minutes	Acceptable	Preferred Maximum
Newbold Verdon Primary School	660m*	820m	8-minutes	10-minutes	Acceptable	Acceptable
Play Park	680m	830m	8-minutes	10-minutes	Acceptable	Preferred Maximum
Newbold Verdon Baptist Church	920m	850m	11-minutes	10-minutes	Preferred Maximum	Preferred Maximum
Liberteas Coffee Shop	940m	860m	11-minutes	10-minutes	Preferred Maximum	Preferred Maximum
Newbold Verdon Village Store	950m	880m	11-minutes	11-minutes	Preferred Maximum	Preferred Maximum
The Church of St James	970m	510m	12-minutes	6-minutes	Preferred Maximum	Acceptable
Jubilee Inn	1.02km	940m	12-minutes	11-minutes	Preferred Maximum	Preferred Maximum
Newbold Verdon Post Office	1.06km	990m	13-minutes	12-minutes	Preferred Maximum	Preferred Maximum
Heathbrook Pharmacy	1.15km	1.08km	14-minutes	13-minutes	Preferred Maximum	Preferred Maximum
De Verdon Nursery & Preschool	1.17km	1.09km	14-minutes	13-minutes	Preferred Maximum	Preferred Maximum
Central Co-op Food Newbold Verdon	1.15km	1.10km	14-minutes	13-minutes	Preferred Maximum	Preferred Maximum
Newbold Verdon Sports & Social Club	1.17km	1.09km	14-minutes	13-minutes	Preferred Maximum	Preferred Maximum
Our Library @ Newbold Verdon	1.19km	1.12km	14-minutes	13-minutes	Preferred Maximum	Preferred Maximum
Newbold Verdon Cricket Club	1.51km	1.32km	18-minutes	18-minutes	Over Threshold	Over Threshold

\*Distance reduces to c.330m if connection to rear grounds of Newbold Verdon Primary School is used.

2.5 The site is well located for public transport, with bus route 153 running through the village from Desford to Market Bosworth. The service affords a peak frequency of 1-hour between Monday-Saturday, with no services on Sundays. The nearest bus stops are located on Main Street and Dragon Lane.

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- 2.6 A Public Right of Way runs along the south western boundary of the Site. The existing PRow runs along the boundary of the field and is not a made track.
- 2.7 The site is located within Flood Zone 1 as identified on the Environment Agency flood maps and is not at risk from surface water flooding.
- 2.8 The site is located within a Mineral Safeguarding Zone for sand and gravel.
- 2.9 The site comprises Best and Most Versatile Agricultural Land with 33% being Grade 2 and 77% being Grade 3a.
- 2.10 There are no designated or non-designated heritage assets within the site. There are several listed buildings located in the vicinity of the site, with the Grade I listed Newbold Verdon Hall and the Grade II listed The Church of St James. The site is located to the west of the Newbold Verdon Conservation Area. , There is a scheduled monument located to the southeast of the site, the Moated Site South of The Hall.
- 2.11 The Site is not subject to any specific environmental or landscape designations such as Special Protection Area (SPA), Special Landscape Area (SLA), Area of Outstanding Natural Beauty (AONB) or Site of Special Scientific Interest (SSSI).

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## 3. Planning History

- 3.1 The site itself has no relevant planning history.
- 3.2 The site sits adjacent to previous permissions for residential development completed Bloor Homes; Permission 1 in 2011 (permission ref: 11/00489/FUL) and Permission 2 in 2020 (permission ref: 20/00143/FUL) – details as follows:
- Permission 1 - 11/00489/FUL – Proposed Demolition of N0. 71 Dragon Lane and Erection of 94 Dwellings with Associated Garages, Car Parking And Infrastructure – 71 Dragon Lane Newbold Verdon Leicester Leicestershire LE9 9NH



- Permission 2 – 20/00143/FUL – Residential Development of 116 Dwellings – Land South Of Bosworth Lane Newbold Verdon Leicestershire – an extract of the site layout can be seen below.



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## 4. Details of the Proposals

- 4.1 The development proposed comprises erection of up to 200 dwellings, a community health and well-being hub (Use Class E(e)) or community shop (Use Class E(a)) of up to 108 sqm gross external area and provision of up to 0.5 hectares of school playing fields and sport pitches, together with landscaping, open space, infrastructure and other associated
- 4.2 It is proposed to deliver the development through an outline planning application with only access for consideration, and subsequent reserved matters approval for layout, appearance, scale and landscaping. The application is accompanied by an indicative Development Framework which is provided to demonstrate one way in which the developable areas and uses could be delivered.
- 4.3 The residential development would provide up to 200 dwellings which would include the provision of policy compliant 40% affordable housing. Both the market and affordable housing mix is proposed to be dealt with at Reserved Matters stage, secured by an appropriately worded planning condition, but would be expected to achieve a mix responding to identified need within the Housing and Economic Development Needs Assessment as well as the character and context of the location. The residential developable area extends to 5.26 ha and is anticipated to be delivered at a density of up to 38 dwellings per hectare. Scale would be a reserved matter, with the site being principally 2-storeys, with potential 2 ½ storeys in suitable locations within the development for place-making and legibility purposes.
- 4.4 In consultation with the Parish Council, the Applicant was advised that health care provision was a crucial issue for the community, and which is also a matter identified within Policy 11 of the Core Strategy at the third bullet point beneath the Newbold Verdon sub-heading, due to the lack of available consulting space at the existing Newbold Verdon medical practice. Additionally, from a Neighbourhood Plan Group consultation it has been identified that some of the

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community would like to see a small shop provided on the site to limit/reduce congestion within the village centre. Therefore, the development proposals include a site for 0.05ha of space for the delivery of either a community health and well-being hub or community shop.

- 4.5 The proposal for either of the above uses could comprise a building up to 108sqm of Gross External Area (GEA), along with associated parking and landscaped areas to serve the building. It is proposed that the land for the building would be transferred via a S106 Legal Agreement with contributions towards the building secured also via a S106 Agreement. This proposal is subject to further discussions within the parish council during the determination of the application to confirm the preferred use.
- 4.6 The proposals include 0.5 hectares of land for use as school sport pitches and playing fields, which would be transferred to the school/Local Education Authority via S106 Legal Agreement. The Council's Infrastructure Capacity Study, as part of the evidence base for the emerging Local Plan, identifies that there could be a requirement for an increase in the capacity of the existing primary school by up to 1FE if additional development were to occur in the village, as proposed by this outline application. A school expansion may require additional land to mitigate any potential loss of sports and playing fields to support the Primary School expansion. The sport and playing pitch land could either be used in addition to the existing or, if required, as land to mitigate loss associated with an expansion of the school.
- 4.7 Initial discussions have taken place with the Local Education Authority (LEA) on 8<sup>th</sup> January 2025) and school (through the LEA) with feedback provided on 7<sup>th</sup> February 2025 who have indicated that they are supportive of the proposals for additional sports pitches. Whilst the final design and layout would be for future consideration, as set out within the Design and Access Statement, an indicative layout has been provided to illustrate how the land could be used. The Local Education Authority has provided a letter confirming their support for the provision of the education land (see Appendix 7). It should be noted that

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the land would also be used to facilitate a new pedestrian access into the school, in order to minimise walking distances for the future, and existing, residents.

- 4.8 Primary vehicular access is proposed off the B585, Bosworth Lane, in the form of a priority T-junction with ghost island right turn provision. The access will include a 6.75m wide access road, with 2.0m wide footways along both sides of the carriageway. Creation of the access and associated visibility splays requires the partial removal of the existing hedgerow fronting onto Bosworth Lane which has been assessed as a Grade C (low quality) hedgerow. The partial loss of hedgerow is proposed to be mitigated with replacement hedgerow planting at the back of the visibility splay.
- 4.9 In addition to the primary access, a secondary access is proposed to connect to the Ferrers Green development to the north east of the site. The access will take the form of a 5.5m wide road with 2.0m wide footway on the southern side of the road. Further details is provided within the Transport Assessment.
- 4.10 The proposed primary pedestrian link to the site will be via Moat Close along the north eastern side of the site. The link will be provided to the north of no. 15 Moat Close and will be 2.0m in width. This connection would tie into existing active travel infrastructure in the neighbouring estate and facilitate easier access to key services and facilities within the centre of Newbold Verdon. A further secondary pedestrian access is proposed adjacent to the secondary vehicular access. As set out above, a third pedestrian access is proposed leading into the school, albeit this would be for pupils and school-users only and not for public use generally. In addition, the development proposals include for pedestrian connections into the PRow S19 that runs along the southwest boundary of the development.
- 4.11 The proposals follow a landscape-led approach incorporating significant green infrastructure. Green infrastructure proposals are primarily focused along the southern, more sensitive, edge of the site. A green infrastructure corridor measuring between 40-70m from the southwestern boundary edge will contain

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new structural planting as well as enhancement of existing vegetation. With native habitats created within the proposed green infrastructure, including scrub, woodland, wildflower grassland and hedgerow planting. The proposed development can achieve a 10% gain in habitat and hedgerow biodiversity on site

- 4.12 Play and open space provision within the green infrastructure is proposed to include an accessible natural green space, casual/informal play space, a local equipped area of play (LEAP) and a local area of play (LAP). Additionally, a pocket park is proposed within the developable area of the site. The development would deliver a total of 2.93 hectares of play and open space.
- 4.13 Surface water drainage is proposed to outfall to an infiltration basin in the south of the site. The attenuation basin is designed with a storage volume of circa 2,647m<sup>3</sup> to allow sufficient time for water to discharge into the ground at a conservative rate and cater for all storm events, including an allowance for climate change. Foul drainage is proposed to be dealt with via a pumping station due to the topography of the site and availability of connections, which require connection into Moat Close, subject to agreement with STW.

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## 5. Planning Policy Context and Housing Land Supply

5.1 Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that, inter alia:

“In dealing with an application for planning permission ... the authority shall have regard to— the provisions of the development plan, so far as material to the application, (c) any other material considerations.”

5.2 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that:

“if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.”

5.3 The National Planning Policy Framework, (NPPF) states at paragraph 2:

“Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in preparing the development plan and is a material consideration in planning decisions...”

### Development Plan

5.4 The adopted Development Plan comprises the following documents:

- Core Strategy (Adopted December 2009)
- Site Allocations and Development Management Policies DPD (adopted July 2016)
- ‘Made’ Neighbourhood Plans

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- Leicestershire Minerals and Waste Plan (Adopted 2019)

5.5 In this instance, there is no 'made' Neighbourhood Plan applicable.

5.6 The relevant policies of the above documents are identified below.

5.7 Core Strategy:

- Policy 7 – Key Rural Centres
- Policy 11 – Key Rural Centres Standalone
- Policy 14 – Rural Areas: Transport
- Policy 15 – Affordable Housing
- Policy 16 – Housing Density, Mix and Design
- Policy 19 – Green Space and Play Provision
- Policy 24 – Sustainable Design and Technology

5.8 Site Allocations and Development Management Policies Plan Document:

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

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- Policy DM13: Preserving the Borough's Archaeology
  - Policy DM17: Highways and Transportation
  - Policy DM18: Vehicle Parking Standards

#### 5.9 Leicestershire Minerals and Waste Plan

- Policy M11: Safeguarding of Mineral Resources

#### 5.10 Supplementary Planning Documents:

- Good Design Guide (2020)
- National Design Guide (2019)
- Landscape Character Assessment (2017)
- Open Space and Recreation Study (2016)

#### Emerging Local Plan Review

- 5.11 The Emerging Local Plan for 2020-2041 was recently subject to Regulation 18 stage consultation, with the public consultation period running from Wednesday 31 July to Friday 27 September 2024.
- 5.12 The plan was drafted on an intention to deliver 13,862 dwellings during the plan period of 2020-41 or 660 dwellings per annum (dpa). The 660 dpa was based on meeting the Local Housing Need calculated using the Standard Method under the 2023 NPPF (433dpa) and accommodating both the undisputed (102dpa) and disputed (85dpa) unmet need from Leicester in accordance with the Leicester and Leicestershire authorities Statement of Common Ground (SoCG).
- 5.13 The above position has altered in respect of the new standard method as part of the new NPPF release in December 2024, with HBBC's Local Housing Need increasing to 649 dwellings. However, whilst Leicester's unmet housing need

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will have decreased by virtue of the removal of the 30% uplift, there remains an unmet need that will need to be met by the surrounding authorities, and will therefore need to be subject to further agreements between the Leicestershire authorities. Accordingly, it is highly likely that the future housing need for the emerging plan will have increased further and therefore the draft allocations and strategy will need to be revisited.

- 5.14 The plan sought to identify and allocate strategic and non-strategic major sites (sites over 100 dwellings) that would be required to meet the identified housing requirement; with 514 dwellings to be found on sites from 11-100 dwellings in the next iteration of the plan. As part of that plan, no additional sites were identified for allocation within Newbold Verdon.
- 5.15 Notwithstanding the above, the draft plan has not allocated enough sites to deliver the full need, in light of a likely increased overall need as referred to above. There are also questions around the deliverability and trajectory of several of the draft allocations, and on this basis the draft plan cannot be given weight.
- 5.16 This accords with Paragraph 49 of the NPPF that allows local planning authorities to give weight to relevant policies of emerging plans according to the stage of preparation, extent of unresolved objections and degree of consistency with the Framework.

#### Emerging Neighbourhood Plan Review

- 5.17 Newbold Verdon Neighbourhood Plan Group (NPG) previously prepared a draft plan for examination, but this was withdrawn following initial findings from the Inspector; the matter is summarised in the Withdrawal Letter from the examination as follows:

*'Newbold Verdon Parish Council submitted their Neighbourhood Plan to Hinckley and Bosworth Borough Council on 8th January 2020. The Neighbourhood Plan Steering Committee on behalf of the Parish*

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*Council then conducted a six week Regulation 16 consultation between 22nd January 2020 and 6th March 2020. The SEA screening Report was consulted on between 11th November and 1st December 2019.*

*Following these consultations, the Neighbourhood Plan, the supporting documents and the responses were received by Hinckley and Bosworth Borough Council and sent to an Independent Examiner; Andrew Ashcroft. The formal independent examination on the Neighbourhood Plan commenced on 23rd March 2020.*

*Prior to the completion of the examination process, the Examiner made it known that he could not continue due to the fact procedures had not been followed, i.e. Regulation 14 had been completed before the SEA and Regulation 16 process. The Parish Council were then given the choice to withdraw the Plan completely or, repeat Regulation 14. Therefore, the NHP Steering Committee and Council members held a meeting on 16th April 2020 to discuss the options and agree the recommendation to repeat Regulation 14.'*

As of 2024, the Neighbourhood Plan Group are progressing a Neighbourhood Plan. Consultants have been instructed to undertake reviews of additional sites submitted to the call-for-sites since the previous version of the NP and will be reviewing needs and relevant chapters of the NP. There are presently no identified timescales for the Neighbourhood Plan preparation although consultations have recently been undertaken in relation to the community's preferred allocation site within the plan. A draft Neighbourhood plan is not available as yet, so no weight can be given to this

#### Housing Land Supply Position

- 5.18 The applicant has undertaken a review of the Council's Housing Land Supply position and has calculated that the Council are presently only able to demonstrate a supply of 2.84 years. The difference to the published position is set out in the below table.

Components of Supply	HBBC Five Year Housing Land Supply (5YHLS) Statement: 1 April 2023 – 31 March 2028	HBBC Five Year Housing Land Supply (5YHLS) Statement with Updated Standard Method LHN	Applicant Review of Housing Land Supply with Updated Standard Method LHN and review of deliverable sites
<b>[A] Local Housing Need</b>	433	649	649
<b>[B] 5% Buffer (A x 0.05)</b>	No buffer applied*	32.45	32.45
<b>[C] LHN Inclusive of Buffer (A + B)</b>	433	681.45	681.45
<b>[D] Total Five Year Requirement (C x 5 years)</b>	2,165	3,407	3,407
<b>[E] Deliverable Sites</b>	2,241**	2,241**	1,759***
<b>[F] Windfall (Years 4 and 5 Only = 87 x 2)</b>	174	174	174
<b>[G] Total Deliverable Supply (E + F)</b>	2,415	2,415	1,933
<b>[H] Years Supply (G / C)</b>	5.6	3.54	<b>2.84</b>

\* The December 2023 NPPF did not require a 5% buffer to be applied to LHN

\*\* As set out within the HBBC Five Year Housing Land Supply (5YHLS) Statement: 1 April 2023 – 31 March 2028.

\*\*\* Based upon the results of sites visits undertaken in March 2025, a total of 482 dwellings have been discounted from the deliverable supply identified within the HBBC Five Year Housing Land Supply (5YHLS) Statement: 1 April 2023 – 31 March 2028.

### National Planning Policy Framework

- 5.19 As set out above, the National Planning Policy Framework is a material planning consideration in determining planning applications. The following chapters are relevant to this application:

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- Chapter 2 – Achieving Sustainable Development
  - Chapter 4 – Decision Making
  - Chapter 5 – Delivering a Sufficient Supply of Homes
  - Chapter 8 – Promoting Healthy and Safe Communities
  - Chapter 9 – Promoting Sustainable Transport
  - Chapter 11 – Making Effective Use of Land
  - Chapter 12 – Achieving Well-designed Places
  - Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change
  - Chapter 15 – Conserving and Enhancing the Natural Environment
  - Chapter 16 – Conserving and Enhancing the Historic Environment
  - Chapter 17 – Facilitating the Sustainable Use of Minerals

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## 6. Assessment of the Proposals

6.1 Having set out a description of the site, the planning history, together with the proposed development and consideration of relevant planning policy against which to assess the proposals, the remainder of this statement considers the case for development of the site.

6.2 It is considered that the proposals raise the following matters for consideration:

- Principle of development
- Accessibility
- Affordable Housing and Housing Mix
- Design and Layout
- Open Space
- Highways and Access
- Landscape and Visual
- Arboriculture
- Heritage
- Flood Risk and Drainage
- Ecology and Biodiversity
- Noise
- Air Quality
- Agricultural Land
- Mineral Safeguarding

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- Sustainable Design and Technology
  - Draft Heads of Terms
  - Planning Balance

6.3 These matters are dealt with in turn below.

Principle of development

6.4 The adopted Core Strategy (CS) and Site Allocations and Development Management Policies DPD (SADMP) sets out and implements the spatial strategy which seeks to focus development on larger settlements. The plan does not have a 'settlement hierarchy' policy, however policies identify levels of growth for individual settlements including Newbold Verdon and a, broad settlement hierarchy is created as follows:

- The 'Main Urban Area' – comprising: Hinckley, Burbage, Barwell and Earl Shilton. Hinckley is identified as the sub-regional centre, as designated by the revoked East Midlands Regional Plan
- Key Rural Centres – Markfield, Groby, Ratby, Barlestone, Desford, Newbold Verdon, Bagworth and Thornton, Market Bosworth, Stoke Golding
- Rural Villages
- Rural Hamlets

6.5 Newbold Verdon is a Key Rural Centre, second in the hierarchy. Policy 11 of the CS allocates a minimum of 110 dwellings to the settlement, to be located within its defined settlement boundary, as set out in Policy 7.

6.6 The supporting text to Policy 11 of the Core Strategy sets out the following:

*'4.29 The focus of most new development will be in and around the Hinckley sub regional centre as this is where there is a concentration of*

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services, where accessibility can be maximised and modal choice made available. However, the needs of rural settlements must also be taken into account to ensure they remain vibrant, mixed communities.

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4.31 Key Rural Centres are those villages that have populations over 1500 people, have a primary school, local shop, post office, GP, community/leisure facilities, employment and a 6 day a week bus service (hourly). Key Rural Centres that provide localised provision of facilities permit access by foot, cycle and local bus and can minimise car journeys not only for those people who are living in the Key Rural Centres, but also the rural villages and hamlets surrounding these centres.

...

4.33 To support these Key Rural Centres, they will be the council's focus for improvements to employment, services, facilities and public transport provision. The vision for these centres is that they will become, where they are not already, the focal points for their surrounding rural communities, places where residents can fulfil their daily needs without having to travel long distances into urban areas. In particular, the linkages between these Key Rural Centres and their Rural Villages and Hamlets will be improved through investment in the green infrastructure and cycle network to enable people to walk and cycle easily to their nearest Key Rural Centre.'

- 6.7 The application site lies outside the settlement boundary of Newbold Verdon and is therefore in the 'countryside' for the purposes of the policies of the CS and SADMP. Policy DM4 of the SADMP states that development in the countryside is unsustainable unless it meets one of five criteria, as set out at parts a) to e) of the policy. The proposed use of 0.5 hectares of land for sport pitches and playing fields complies with Policy DM4, criteria a), however overall, including consideration of the residential development, the proposal

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does not meet the criteria and therefore there is conflict with Policy DM4 and, as a result, with the overall spatial strategy of the Council.

6.8 Whilst it is acknowledged that there is a degree of conflict with the Policy DM4 and the CS spatial strategy, the weight to be afforded to that degree must be considered further alongside the context of how the spatial strategy could be applied and the significant shortfall in the 5 year housing land supply position.

6.9 The CS is based on a target of 450 dwellings per annum for the period 2006 to 2026, which is derived from the East Midlands Regional Plan. The East Midlands Regional Plan has since been revoked and as set out in the Framework, the starting point for establishing the minimum housing requirement for an area should be the Standard Method. Paragraph 62 of the NPPF goes further and sets out that:

'To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning practice guidance. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.'

6.10 The Core Strategy housing requirement was based on a different methodology, does not reflect an up to date needs assessment undertaken in accordance with extant national policy (the standard method), and is expressed as an "end point". The Core Strategy requirement does not support the government's objective of securing a significant boost to housing delivery.

6.11 The above has been recognised in numerous appeal decisions where it has been confirmed, and the Council has accepted, that strategic policies are out of date on this basis, and the tilted balance is engaged. The appeal decisions include the following:

- Appeal Ref: APP/K2420/W/17/3188948 – Land east of The Common, Barwell (Appendix 4)

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- Appeal Ref: APP/K2420/W/20/3262295 – Wykin Lane, Stoke Golding (Appendix 6)
  - Appeal Ref: APP/K2420/W/22/3301735 – Land off Sketchley Lane, Burbage (Appendix 3)
  - Appeal Ref: APP/K2420/W/23/3330774 – Desford Lane, Ratby (Appendix 2)
  - Appeal Ref: APP/K2420/W/23/3331081 – Hunts Lane, Desford (Appendix 6)

6.12 As a result of recent changes to the Standard Method, the housing requirement is currently 649 dwellings per annum, a significant uplift from the adopted minimum requirement meaning that even if the adopted housing requirement were met, it would not meet minimum the local housing need.

6.13 It is important to note that the adopted plan includes settlement boundaries as set out within the SADMP. These settlement boundaries are designed only to accommodate the out-of-date housing requirement set out within the Core Strategy and are not capable and able to meet a higher requirement or alternative sites should some of the allocations not come forwards. In light of this, the settlement boundaries can only be afforded limited weight as they reflect an out-of-date needs assessment, and constrain the ability of the local planning authority to meet its housing needs.

6.14 In terms of the delivery of the spatial strategy, it should be noted that even against the constrained, out of date housing requirement, the current plan is not delivering as anticipated, and it is clear that additional land release is required to meet housing need.

6.15 The Core Strategy seeks to deliver 9,000 homes over the plan period 2006-2026. The Council has not met its adopted housing target and is unlikely to by the end of the plan period (2026). The net housing completions for the period 2006 to 2023 was 7,645 (449 dpa) (as set out in the Residential Land Availability Monitoring Statement 22-23). The latest Five-Year Housing Land Supply

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Statement (1<sup>st</sup> April 2023 – 31<sup>st</sup> March 2028), identifies that in 2023/24 426no dwellings will be delivered and 2024/25 642no. dwellings, equating to 1,068. When added to the past completions of 7,645, this delivers 8,713, short of the required 9,000 dwellings by 2026.

- 6.16 Within the context of the spatial strategy, two large Sustainable Urban Extensions were proposed as part of the CS. Policy 2 of the Core Strategy identifies that Development in Earl Shilton which includes allocating land for 2,000 home and Policy 3 Development in Barwell includes allocating land including for 2,500 homes. The housing trajectory on page 93 of the Core Strategy anticipated the first homes to be delivered from the two SUEs would be in 2012/13, with a total of 4,120 homes to be delivered from the two sites over the plan period.
- 6.17 Neither of the two SUEs referred to above has started or is even included within the Council's current five-year supply of deliverable housing sites, noting that the five-year period extends beyond the end date of the Core Strategy (2026).
- 6.18 The failure of the SUEs means that the Council is unable to meet its constrained, out-of-date housing requirement or its local housing need figure (which is now to be used for calculating five-year housing land supply) and cannot be addressed by simply bringing forward the adopted allocations. This re-emphasizes that the settlement boundaries and restrictive policies that constrain the ability of additional sites to come forward and meet the needs, are out of date and can only be afforded limited weight.
- 6.19 There is a national policy requirement to demonstrate a five - year supply of deliverable housing sites. As set out above, the local planning authority cannot do this. This renders the most important policies for determining the application out of date in accordance with Paragraph 11d) of the NPPF. Notwithstanding, in addition, even the supply that can be demonstrated is reflective of the fact that the Council is dependent on unallocated greenfield site coming forward to maintain its supply as a result of the failure of the allocations. This is another reason why the settlement boundary policies are out of date and should be

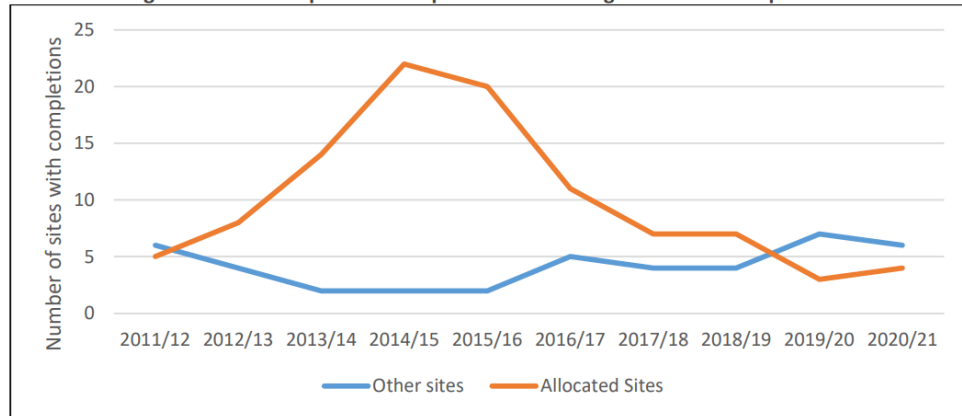
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attributed less weight. In the alternative, if they were applied with full rigour, the local planning authority would not be in a position to recover or maintain a supply, in accordance with the minimum requirements of national policy.

- 6.20 Reflecting the above, as a result of the failure of the SUEs, a large proportion of the housing that has been granted planning permission during the plan period has been on additional, unallocated greenfield land consented at Appeal, contrary to the Development Plan and associated spatial strategy.
- 6.21 The Council has identified within the latest Housing Delivery Test Action Plan (June 2024) (HDTAP) that the adopted Local Plan is coming towards the end of its timeframe and that there are not many housing allocations remaining in to be built out. It sets out in Section 3.5 that 2014/15 saw a peak high in completions within the Borough since the start of the plan period, which was due to appeals being consented on housing sites. The allocated sites were then carried forward into the SADMP. Completions remained high in 2015/16 and have dropped since then; with the majority of sites being built out in 2014/15 and 2015/16 included allocated sites (that had been carried forward from being granted at appeal).
- 6.22 The Council identifies that the lack of allocated sites being consented has reduced housing delivery in the Borough and this therefore has been a barrier to development and housing delivery. It should be noted that the lack of allocated sites being consented is as a result of them being very limited in supply, other than the SUEs; the only way to increase consents on allocated sites would be to allocate more sites. The completions on allocated large sites compared to other large sites is depicted in Figure 14, which is presented below. Completions on Other Sites, now exceed those on allocated sites, and this trend is likely to be exacerbated based on the sites within the current supply. It should be noted that Other Sites includes, but is not limited to, unallocated greenfield sites.

- 6.23 As a result, and as identified above in respect of housing supply on unallocated sites, the Council is presently reliant on unallocated, greenfield sites in order to meet current housing needs which is contrary to a plan-led approach.

Figure 14: allocated large sites with completions compared to other Large sites with completions



- 6.24 The HDTAP continues to set out the Council is committed to bringing forward a new Local Plan that will guide growth up to 2041, with the emerging plan having been through three rounds of consultation at Regulation 18 stage (2018, 2019 and 2021) and proceeding with Regulation 19 pre-submission consultation in 2022. However, the emerging evidence was suggesting that the Council's proposed spatial strategy may not be deliverable, so a decision was made to update the Local Development Scheme and undertake a further Regulation 18 stage which took place in 2024. Since then, and as noted above, the Local Housing Need has significantly increased and the Council will need to review the emerging Local Plan Review further, as discussed, presently, there is no updated Local Development Scheme. Considering this, there is no plan-led solution to rectify the persisting shortfall in housing land supply.
- 6.25 Drawing the above together, whilst it is acknowledged that there is conflict with Policy DM4 of the SADMP by virtue of being located within the countryside, outside the outside settlement boundary, the spatial strategy is out of date on its own terms and also because the Council is unable to demonstrate a five-year supply of deliverable housing sites, both of which engage the presumption in favour of sustainable development as set out at Paragraph 11d) of the NPPF

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and as a result the weight to be attributed to the conflict in the circumstances is notably reduced. This view was taken by the Inspector for the Brascote Lane appeal decision, where they stated the following at paragraph 15:

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

#### Sustainability of Newbold Verdon and the Application Site

- 6.26 Newbold Verdon is a sustainable settlement and location for residential development in principle to accommodate additional homes to meet the district's housing needs and to address the undersupply of housing. The sustainability of the settlement is recognized in Policy 11 of the Core Strategy and the associated supporting text, particularly paragraphs 4.29 – 4.33 as referred to above.
- 6.27 Paragraphs 4.29 – 4.33 identify that settlements within this tier of the hierarchy can be, or are capable of being, the focal points for their surrounding rural communities and places where residents can fulfil their daily needs without having to travel long distances into urban areas. This recognizes the sustainability of the settlement in principle to accommodate further growth.
- 6.28 The suitability of settlements within this tier to accommodate further residential growth has been considered in recent appeal decisions at Brascote Lane, Newbold Verdon (Appeal Ref: APP/K2420/W/23/3331081) and Desford Lane, Ratby (Appeal Ref: APP/K2420/W/23/3330774), see appendices 1 and 2.
- 6.29 For the Brascote Lane appeal, the Inspector found that:

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' 22. The appeal site is on the edge of, but outside, Newbold Verdon. Newbold Verdon provides a reasonable range of services and facilities, including pubs, a primary school, a Co-op, churches, a post office, and other shops and facilities. The walking distances to the facilities are agreed<sup>6</sup> as is the methodology of measuring from the middle of the appeal site to provide an average measurement. Main Street, with the majority of the services, is around 1km from the site. Apart from the Windmill Pub, next to the site, the other services and facilities are between 850m and 1.5km distant. The distances are therefore mostly beyond the 800m distance recommended to create a walkable neighbourhood in Manual for Streets<sup>7</sup> (MfS) but within the upper walkable limit of 2km set out in the same document.

6.30 For the Deford Lane appeal, the Inspector confirmed that:

'25. Ratby is identified in the Core Strategy as a Key Rural Centre because it contains a primary school, local shop, post office, medical surgery, community and leisure facilities, employment opportunities and a 6 day a week bus service. These services and facilities are recognised in the Core Strategy as making it a place where residents can fulfil their daily needs without having to travel long distances into urban areas. A need identified in Policy 8 of the Core Strategy to improve medical facilities in Ratby has recently been secured through completion of the new medical centre on Desford Lane.

6.31 In light of the above, it is evident that Key Rural Centres are capable of accommodating additional residential development in principle, subject to the individual accessibility of their respective facilities and services (considered further below).

6.32 Having regard to the above, whilst the spatial strategy in the CS is in broad accordance with the Framework, by focusing development in the most accessible locations, the strategy is reliant on an out-of-date housing requirement; that has recently significantly increased and the Council has, and

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continues to, rely on sites outside of settlement boundaries. As a result, only limited weight can be afforded to the conflict with the spatial strategy and Policy DM4 of the SADMP.

#### Accessibility

- 6.33 Policy DM17 of the SADMP seeks to ensure that developments a) seek to make the best use of existing public transport services and, where appropriate, provide opportunities for improving and sustaining the viability of those services; b) seek to ensure that there is convenient and safe access for walking and cycling to services and facilities, and d) that the development is located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. This is consistent with the NPPF which seeks, at paragraph 115, that application for developments ensure that sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;
- 6.34 The site is on the edge of, but outside, Newbold Verdon. Newbold Verdon provides a reasonable range of services and facilities, including pubs, a primary school, a Co-op, churches, a post office, and other shops and facilities.
- 6.35 As set out within the Transport Assessment, the proposed development site is well situated to benefit from access to local services and facilities. The proposed site's accessibility has been judged against the institute of Highways and Transportation (IHT) 'Guidelines for providing for Journeys on Foot' (2000) in relation to acceptable walking distances to services and facilities. Table 2.3 sets out the key local services and facilities within the vicinity of the site alongside their respective distances from the centre of the site. Distances have been taken from the centre of the site via the main pedestrian access which will be provided on to Moat Close; which will provide a safe, level and well-lit walking route to the village. PRow S19 will also provide an alternative route to Main Street and therefore walking distances and times via the PRow have also been set out. Additionally, a new access is proposed from the application site

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directly into the school to minimise walking distance for future residents. And reduce walking distances for existing residents, where applicable.

- 6.36 It can be seen from Table 2.3 that there are a number of local facilities within 800m of the site which aligns with the 'walkable neighbourhoods' description set out in Manual for Streets and the National Design Guide. This includes the medical practice, primary school and play park. The proposed development site also benefits from access to local services and amenities within the 'Preferred Maximum' walking distance specified in the IHT guidance including food stores, a nursery, a library, public houses, café's and a post office.
- 6.37 In terms of walking distances, it is also notable that other residential sites in the village have been approved which have similar or longer walking distances to local facilities compared to this site. For example, the Brascote Lane site is located over 1.0km from the primary school (compared to 330m for this site), and has similar walking distances to the local shops within the village. Furthermore, the Ferrer's Green development is located immediately north of the site and would therefore be subject to similar walking distances to this site. Both sites have been found to be accessible and subject to acceptable walking distances to facilities and services.
- 6.38 Notwithstanding the above, it should also be noted that whilst Manual for sets out a 2km distance as the upper walkable limit, the Inspector for the Brascote Lane appeal identified that these are not policy requirements, but are guidelines, and gives weight to the quality of the route - in particular the fact that there was access along a pavement with an adequate width, and which is lit, and where vehicular traffic is relatively light, and also that there were alternatives off road footpaths. The quality of the route should also be given consideration in this instance as the proposals provide access along a pavement of adequate width, which is lit and lightly trafficked, and there is also an alternative route along the PRow.
- 6.39 The closest bus stops to the development are located c.550m from the centre of the site on Dragon Lane, equating approximately to a 6-minute walk via

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Moat Close and Old Farm Lane. Bus service 153 runs from these stops. It runs roughly hourly, including both early in the morning and into the evening, Monday to Saturday. There are no services on Sundays. As set out in Brascote Lane appeal decision 'This is a reasonable bus service for a rural location, providing a useable service to the larger service centres of Market Bosworth, Desford and Leicester'.

6.40 The suitability similar accessibility and walking distances was considered in the following appeal decisions within Key Rural Centres; Newbold Verdon (Appeal Ref: APP/K2420/W/23/3331081) and Desford Lane, Ratby (Appeal Ref: APP/K2420/W/23/3330774), see appendices 1 and 2.

6.41 For the Brascote Lane appeal, the Inspector found that:

'25. Overall, I think it is likely that some journeys would be undertaken by foot or by bus. There would also, however, likely be a reasonable degree of reliance on the car for many of the journeys from the site. Given the relatively rural location of both the appeal site and Newbold Verdon, this is an acceptable level of accessibility, because there are genuine alternatives to the car for many journeys. The proposal is, therefore, in a suitable location for housing, with adequate access to services and the proposal meets the requirements of Policy DM17 of the SA DPD, which requires good walking access to services and facilities and where the need to travel will be minimised and the use of sustainable transport modes can be maximised.'

6.42 For the Deford Lane appeal, the Inspector found that:

'31. I conclude that, notwithstanding the shortcomings, accessibility to services and facilities sufficient to meet daily needs would be available to occupants of the proposed development by a range of travel modes other than the private motor car. Accessibility further afield to higher order services, facilities and employment opportunities would also be available by bus or bicycle. The proposal would therefore accord with

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Policy DM17 of the Development Management Plan, which seeks to minimise the need to travel and promotes sustainable forms of transport in new developments.'

- 6.43 Having regard to the accessibility of the location, and findings of the Inspectors, it can reasonably be concluded that it is likely that journeys would be undertaken by foot or bus and the site presents an acceptable level of accessibility where residents can fulfil their daily needs, and there are genuine alternatives to the car for many longer journeys. The proposals over a qualitative route and quantitative distance comparable and/or betterment to facilitates and services within the village which have already been found to be acceptable. Therefore, the proposals should be considered to comply with Policy DM17 of the SADMP and Paragraph 115 of the NPPF.

#### Community Shop/Retail Provision

- 6.44 The proposals include the potential provision of an area of land for a community shop. Typically a community shop would have a planning use class of F2 and therefore would not be a main town centre/retail use, with F2 uses being as follows:

*'F2(a) a shop mostly selling essential goods, including food, to visiting members of the public in circumstances where—*

*(i) the shop's premises cover an area not more than 280 square metres, and*

*(ii) there is no other such facility within 1000 metre radius of the shop's location'*

In this instance, the community should would be below the 280sqm limit but would be circa 950m from the existing Co-operative store and therefore would be discounted from Use Class F2, and fall under Use Class E(a) 'Display or retail sale of goods, other than hot food', a main town centre use.

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Policy DM21 sets out the requirements for sequential tests and retail impact assessments, stating the following:

‘...

The above sequential approach will not be applied for the following developments:

d) Small scale rural development;’

There is no definition within the policy or supporting text on what constitutes a ‘small scale rural development’. Despite the proposal not constituting an F2 use class, the proposal is considered to constitute a ‘small scale rural development’ and therefore no sequential test is required to accord with Policy DM21.

#### Affordable Housing and Housing Mix

- 6.45 Core Strategy Policy 15 identifies 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. In Rural Areas, it is expected that 40% affordable housing will be delivered on-site.
- 6.46 The proposed development would provide a policy compliant provision of 40% on-site affordable housing, which equates to 80no. dwellings (based on a total of 200 dwellings being delivered). The tenure mix of the affordable housing is proposed as 23% affordable home ownership and 77% affordable rented and will be subject to further discussion with the Affordable Housing and Enabling Officer.
- 6.47 Whilst the application is in outline form with only access for consideration, the delivery of 40% affordable housing can be secured through a S106 agreement and the mix can be secured through a provision for the submission of an affordable housing scheme at Reserved Matters stage.
- 6.48 The CS target for affordable housing delivery is 2,090 affordable homes during the plan period of 2006 to 2026, at 105 dpa. The Council's Residential Land Availability Statement 22-23 identifies<sup>10</sup> that, as of 30<sup>th</sup> September 2023, a gross

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total of 1,813 affordable dwellings have been completed over a 17.5-year period since 2006, equating to 103.4 dpa and therefore below the CS target. In addition, the latest estimates of affordable housing need set a far higher requirement, for example 498 dpa as set out in The Leicester and Leicestershire Housing and Employment Needs Assessment, June 2022.

- 6.49 At the Brascote Lane appeal decision, the Inspector concluded that there is an acute need for affordable housing and placed substantial positive weight on this factor in terms of the benefits of delivery of those proposals, including up to 95no. affordable dwellings.
- 6.50 Similarly to the affordable housing mix, the market housing mix is expected to be dealt with at Reserved Matters stage and this requirement can be secured by a suitably worded planning condition. Notwithstanding, it is anticipated that the mix will be based on the latest housing mix evidence set out within the Housing and Economic Development Needs Assessment and having regard to the character, context and location of the site.
- 6.51 The proposals would accord with Policy 15 of the Core Strategy.

#### Design and Layout

- 6.52 The application is accompanied by a Design and Access Statement setting out the approach to the design and layout of the site. The approach follows the opportunities and constraints of the site which are identified as follows:
- Constraints
    - Existing landscape character and vegetation to be retained;
    - Nearby heritage assets, including the Grade I listed Newbold Verdon Hall, Grade II listed Church of St James and the Conservation Area;
    - Integration with adjacent development which is currently under construction and existing development adjacent to the site; and

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- Retention of the existing PRow that runs along the south-western boundary of the Site.
  - Opportunities
    - A clear access strategy providing vehicular access and pedestrian access into the Site, via Bosworth Lane and the existing development to the northeast;
    - Retention and enhancement of the existing PRow network, with new recreational routes plugging into the wider network;
    - Providing an appropriate landscape buffer to the adjacent land and heritage assets to the south of the Site, including the provision of additional tree planting and new areas of open space and play space;
    - Provision of land to expand the existing school facilities;
    - Providing sustainable drainage features in the form of attenuation basin, managing surface water run off and providing ecological and amenity benefits; and
    - Retained and enhanced hedgerows and high quality trees along Site boundaries.

6.53 Having regard to the opportunities and constraints, a Concept Plan was established setting out the parameters of the development proposals for the site. From this, an illustrative Framework Plan was developed to demonstrate how development could be brought forward to successfully accommodate the proposals.

6.54 As can be seen from the illustrative Framework Plan, a clear and defined approach to urban form within clear perimeter blocks, where streets are overlooked by active frontages, aiding security and social cohesion. Nodal spaces, principally at the intersection of key movements routes are key at aiding and embedding legibility within the development. At the entrance to the site, a pocket park is created to embed legibility and provide amenity space for future residents.

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- 6.55 Primary frontages will reflect those along the key routes of the site, including a clear and well defined building line, a greater continuity and rhythm of built form, 2.5 storey units may be appropriate in key locations. Dwellings along the southern and western boundary should be 2 storey as a maximum.
- 6.56 Local frontages will be centred around the northern nodal point and green space may have a more organic rhythm of built form, not needing to adhere to strict building lines. Similarly, Green Edge frontages may have an organic rhythm, making use of soft landscaping and materials which are more appropriately reflect the adjacent landscape.
- 6.57 The proposals have followed and responded to a constraint-led approach resulting in a development that sits comfortably within the site and is capable of adhering to Policy DM10 of the SADMP.

#### Open Space

- 6.58 Policy 11 of the Core Strategy identifies that to support the local services and maintain rural population levels the Council will address the existing deficiencies in the quality and accessibility of green space and play provision in Newbold Verdon as detailed in the council's most up to date strategy and the Play Strategy.
- 6.59 Policy 19 of the Core Strategy identifies the following standards to be used in relation to green pace and play provision to ensure residents have access to sufficient, high quality, accessible green spaces and play areas.
- Equipped Children's Play Space - A minimum of 0.15 ha/1000 population (excluding buffer zones)
  - Casual/Informal Play Space - A minimum of 0.7 ha/1000 population
  - Outdoor Sports Provision – A minimum of 1.6 ha/1000 population
  - Accessible Natural Green Space - A minimum of 2 ha/1000 population
- 6.60 The table below sets out the play and open space requirements for the development set against Policy 19, broken down into the required provision per

dwelling (based on an average of 2.4 people per dwelling taken from CENSUS as set out in the Open Space and Recreation Study 2016):

- Equipped Children's Play Space - 3.6 sqm
- Casual/informal Play Space - 16.8 sqm
- Outdoor Sports Provision - 38.4 sqm
- Accessibility Natural Green Space - 40 sqm

Open Space Typology	Requirement (in sqm) (240 x XX)	Proposed delivery (sqm)	Surplus/ deficit (sqm)	Comment
Equipped/Designated Children's Play Space	720	1100	+380	Exceeds requirement
Casual/Informal Play Space	3,360	3,600	+240	Exceeds requirement
Outdoor Sports Provision	7,680	5,000	-2,680	Any deficit in this typology can be offset via contributions to enhance quality of provision elsewhere
Accessible Natural Green Space	8,000	19,600	+11,600	Significantly exceeds requirement
Total	19,760	29,000	+9,240	

6.61 Having regards to the above table it is evident that the proposals would meet and exceed requirements for equipped/designated play space, casual/informal play space and accessible natural green space. The proposal delivers approximately 150% of the open space requirements set out in Policy 19 of the CS.

#### Highways and Access

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- 6.62 The application is accompanied by a Transport Assessment and Travel Plan. The Transport Assessment should be read in full but below provides an overview of the findings.
- 6.63 Primary vehicular access to the proposed site is proposed via the B585, Bosworth Lane, in the form of a priority T-junction with ghost island right turn provision. The access will include a 6.75m wide access road, with 2.0m wide footways along both sides of the carriageway. Creation of the access and associated visibility splays requires the partial removal of the existing hedgerow fronting onto Bosworth Lane but is proposed to be mitigated with replacement planting at the back of the visibility splay.
- 6.64 In addition to the primary access, a secondary access is proposed to connect to the Ferrers Green development to the north east of the site. The access will take the form of a 5.5m wide road with 2.0m wide footway on the southern side of the road.
- 6.65 The proposed primary pedestrian link to the site will be via Moat Close along the north eastern side of the site. The link will be provided to the north of no. 15 Moat Close and will be 2.0m in width. This connection would tie into existing active travel infrastructure in the neighbouring estate and facilitate easier access to key services and facilities within the centre of Newbold Verdon. A further secondary pedestrian access is proposed adjacent to the secondary vehicular access and a third access into the school land to minimise walking distances to the school for future, and existing, residents. In addition, the development proposals include for pedestrian connections into the PRoW S19 that runs along the southwest boundary of the development.
- 6.66 Safe and suitable access to the proposed development can be provided for all users. There are no outstanding highway safety issues on the surrounding local highway network or at the proposed point of access which the development would be expected to exacerbate.

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- 6.67 It is anticipated that the proposed development will generate 149 and 152 two-way movements during the respective AM and PM peak periods. This would result in between 2 and 3 additional trips on the network every minute during the AM and PM network peak periods. Multi modal trip rates have also been calculated which are predicted to generate a modest level of trips to and from the site.
- 6.68 A strategic traffic modelling assessment was undertaken using LCC's Pan Regional Transport Model. The assessment indicated that the proposed development would not have a significant impact on the local highway network. The Area of Influence identified within the PRTM assessment has been used to identify locations where additional standalone junction assessments are required.
- 6.69 Off-site junction capacity assessments were undertaken using relevant junction modelling software. These assessments indicated that the proposed development would not result in a severe impact on the local highway network.
- 6.70 The proposed development would comply with Policy DM17 of the SADMP.

#### Landscape and Visual

- 6.71 The application is accompanied by a Landscape and Visual Impact Assessment. The assessment should be read in full but the below summarises the effects.
- 6.72 The site lies entirely within National Character Area (NCA) 71 'Leicestershire and South Derbyshire Coalfield'. At a more localised level as assessed within the Hinckley and Bosworth Borough Council Landscape Character Assessment (September 2017) the site lies within the 'Newbold and Desford Rolling Farmland' Landscape Character Area.
- 6.73 The site and its immediate context are of Medium landscape value. The site and its wider context are not subject to any national or local designations. At

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current the site is utilised as arable farmland and at the time of surveying, considered to be in good management. Hedgerows are well maintained along all boundary edges. There is no vegetation intervening the site and the only feature of note is a low voltage power line running west to east.

- 6.74 There is a single public right of way (PRoW) that runs within the site along the southern boundary edge. A series of other PRoWs can be found within the immediate context to the south, south west and west of the site. Views from settlements within the context of the site such as Barlestone, Newbold Verdon, Newbold Heath and Osbaston are limited by existing vegetation along field parcel boundaries, topographical change and existing development. Views of the site are more achievable from the south/ southwest, however these are still greatly limited by the presence of existing vegetation and changes in landform. The most sensitive receptors are PRoW users of the south/southwest of the site due to their proximity.
- 6.75 Green infrastructure proposals will be primarily focused along the southern, more sensitive, edge of the site. A green infrastructure corridor measuring between 40-70m from the southwestern boundary edge will contain new structural planting as well as enhancement of existing vegetation. This corridor will also contain the SUDs features are form part of the wider POS associated within the scheme.
- 6.76 The effects rising from the construction period will be short term and will therefore not cause any prolonged landscape or visual harm.
- 6.77 In the long term, in terms of character, effects upon the published character assessment material at a national level will be negligible. At borough level, effects will be slightly higher at a minor adverse/negligible level. For site and immediate context effects will be moderate adverse as there will be a change to the character of the site due to the proposed development. Mitigation planting and green infrastructure proposals around the south western edge will help mitigate for the proposed development.

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- 6.78 In the long term, in terms of visual effects, the greatest level of effects will be experienced by localised receptors, including users of PRow's within the immediate context (such as S19/2, S19/1 & S60/1) to residential receptors to the immediate north of the proposed development on Moat Close and White Park Avenue, as well as road users to the west of the site (Bosworth Lane). New planting and green infrastructure corridor along the south west and western edge of the development will help mitigate the long term effects of the development.
- 6.79 Long term effects will range from moderate adverse for PRow users within the site boundary and to its immediate south to negligible from more distant and less sensitive receptors such as road users to the north on Barlestone Road, or receptors of the same level of sensitivity, but will much more distance between themselves and the development, such as users of PRow R60/1 to the south west.
- 6.80 Policy DM4 of the SADMP sets out five criteria that must be met by development in the countryside, subject to development being one of the acceptable uses within the countryside as set out in parts a( to e) of the policy. As set out above under the 'principle of development' section, it is acknowledged that the proposal does not meet one the uses considered to be appropriate in the countryside but that Policy DM4 can only be afforded limited weight. Notwithstanding, as set out in the Brascote Lane appeal decision, the five criteria can help to provide a framework for assessment of the acceptability of proposals when located within the countryside.
- 6.81 In this instance, of the five criteria, only i) is applicable which requires that 'It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside'. Having regards to the harm identified within the Landscape and Visual Impact Assessment, as summarized above, it is not considered that the proposals would have a 'significant' adverse impact and therefore there is no conflict with this criteria of Policy DM4. The approach to considering conflict with Policy DM4, using

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'significant' adverse impact as a threshold, was set out in the Sketchley Lane appeal decision (Appeal Ref: APP/K2420/W/22/3301735), see Appendix 3.

#### Arboriculture

- 6.82 The site comprises a total of seven individual trees, three groups of trees and four hedgerows. The trees are predominantly native species, with there being 5no. classified as high-value trees, falling under Retention Category A, located on the southern boundary with the exception of one in the northern corner adjacent to Bosworth Lane. The three groups are all Category B.
- 6.83 All trees, hedgerows and groups are retained with the exception of 1no. Category B tree, and 1no. Category B group, as well as a Category C hedgerow. These are proposed to be removed to facilitate the access and associated visibility splays and highways drainage requirements.
- 6.84 It is proposed that the removal of the hedgerow will be mitigated by replanting alongside the new ditch. It will be possible to mitigate for the necessary removals through the provision of replacement planting. The site's valuable trees will be retained and integrated safely within the development, including the category A oak trees.

#### Heritage

- 6.85 The application is accompanied by a Heritage Statement as well as a Desk-based Archaeological Assessment, informed by a Geo-physical Survey.
- 6.86 The site does not contain any designated, locally listed or non-designated heritage assets. There are 11 listed buildings or structures within a 1km radius of the site, as well as a Conservation Area, located to the east south and southeast of the site. There is a Scheduled Ancient Monument located south of the site. There are several Important non-designated buildings that are highlighted in the conservation area appraisal which are located to the east of the site boundary along the southern flank of Main Street.

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- 6.87 The Heritage Statement sets out that the significance and setting of designated heritage assets in the vicinity of the site has been carefully considered, taking account of the historic development of the surrounds. The assets considered to be potentially sensitive to change within the site comprise the Grade I Listed Newbold Verdon Hall, the Scheduled Moated site, the Grade II Listed pavilions, the Grade II Listed Church of St James, and the Newbold Verdon Conservation Area.
- 6.88 With regards to Newbold Verdon Hall, the site was likely part of the manorial landholdings in the 17th and 18th centuries but would have possessed a different landscape character. The site lay beyond the designed landscape surrounding the Hall in the 18th century, only remnants of which survive today. It would have been peripherally experienced when moving along the Western Avenue (i.e. it was not the focal point of views) and from the vicinity of a fishpond, but is most likely to have been screened by an avenue trees in views north-west from the Hall, historically. It is visible from the Hall today, but the key historic view north-west is now screened by trees and the avenue lost. The site has been and is historically associated agricultural land illustrating the later use of the Hall as a farmhouse. Overall, the site is considered to make a small contribution to the overall significance of Grade I Listed Newbold Verdon House through setting. The visibility of the development from the asset would be softened by a tree belt. The change in character of the site and the filtered views of development would cause less than substantial harm to the Hall, at the lower end of the spectrum.
- 6.89 With regards to the Scheduled moated site, the site may have been part of an associated deer park, although the extent of such a feature, if present, is not known. The development is anticipated to be visible, albeit filtered by planting, in views from the moat, and, at most, a very low level of less than substantial harm is anticipated.
- 6.90 With regards to the associated pavilions, the site makes only a very modest contribution to their heritage significance, through its character having a very

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small amount of illustrative value as to the later agricultural use of the structures, with this change being co-visible in some views to the assets. A very low level of less than substantial harm is anticipated.

- 6.91 With regards to the Church of St James, the site is co-visible with the asset in views from the north-west, and there is glimpsed visibility of the area from the churchyard, with these views making a very modest contribution to the understanding of the settlement edge location of the asset. Change of the character of the site and the co-visibility of this in views would result in very low level of less than substantial harm.
- 6.92 With regards to the Conservation Area, taking into account the whole of the significance of the area, and the contributions the site makes to the assets within it, as well as the visibility of the site from the closest part of the area itself, the site is considered to make a very modest contribution to the significance of the asset through setting, and the proposed development would result in a very low level of less than substantial harm.
- 6.93 The archaeological assessment sets out that a review of the available evidence indicates that the site has a low potential to contain archaeological finds and features from all periods. This assessment is supported by a geophysical survey of the site which has not recorded any features of archaeological interest. The scheduled 'Moated Site South of the Hall' (NHLE 1009198) is located c. 170m to the south of the site and it is considered that whilst the proposed development would constitute a change to the monuments setting this change is not considered to harm the significance of the scheduled monument.
- 6.94 Based on the available evidence, below ground heritage assets are unlikely to represent a constraint to the proposed residential development. It is considered that any further requirements for archaeological investigation could reasonably be secured by a suitably worded planning condition should consent be granted.

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- 6.95 In light of the less-than-substantial harm to Newbold Verdon Hall, the Scheduled moated site, associated Pavilions, Church of St James and Newbold Verdon Conservation Area, it is necessary, in accordance with Policy DM11 of the SADMP and Paragraph 215 of the NPPF, that this harm be weighed against the public benefits of the proposal. Additionally, when considering the proposals and whether development affects a listed building or its setting, special regard is had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 6.96 Within this context, it is acknowledged that Paragraph 212 also sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
- 6.97 In the above context, it is acknowledged that whilst less-than-substantial harm is caused to several heritage assets, this includes the Grade I listed Verdon Hall and the Scheduled Ancient Monument which are afforded greater weight.
- 6.98 The public benefits of the proposals are set out in full within the Planning Balance below, but are summarised as:
- Delivery of Housing
  - Delivery of Affordable Housing, where there is an established acute need
  - Provision of School Sports and Playing Pitches
  - Provision of Community Health and Well-being Centre
  - Economic Benefits
  - Biodiversity Net Gain

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- 6.99 Having regard to the level of harm caused to the designated heritage assets, including the Grade I listed building which is afforded greater weight, it is considered that the public benefits of the proposals clearly outweigh the harm and therefore the proposals accord with Policy DM11 of the SADMP and Paragraph 215 of the NPPF.

#### Flood Risk and Drainage

- 6.100 The application is accompanied by a Flood Risk Assessment and drainage strategy.
- 6.101 In terms of flood risk, the assessment sets out that The Flood Map for Planning shows the site is located within Flood Zone 1. Flood Zone 1 is defined as land assessed as having an annual probability of river flooding of less than 1%. The Environment Agency Flood Risk from Surface Water Map, which includes climate change for the 2050's epoch (2022 to 2060) indicates that the majority of the site is designated to be at low risk from surface water flooding. There are isolated areas at medium to high risk of surface water flooding within the western boundary of the site. No development is located within areas at medium – high risk of surface water flooding. Groundwater flood maps indicate that the site is in an area of 25- 50% susceptibility to groundwater flooding. The nearest BGS borehole record to the site identifies groundwater at a depth of 1.80m – 2.25m. Groundwater monitoring for a six-month winter period, should be undertaken in due course.
- 6.102 Paragraph 175 of the NPPF sets out that the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising, or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now or in the future (having regard to potential changes in flood risk). Therefore a sequential test is not required for this application having regards to the level of flood risk,

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identified above, for the site and having regard to the location of the proposed development.

- 6.103 The surface water drainage is proposed to outfall to an infiltration basin in the south of the site. A storage volume of circa 2,647m<sup>3</sup> is required within the infiltration basin to allow sufficient time for water to discharge into the ground at a conservative rate of and cater for all events, including allowances for climate change. The attenuation basin has been designed to accommodate a 1:4 gradient for the internal slopes with a 1:4 gradient for the external batter slopes and will include a 5m easement/maintenance strip around the outside.
- 6.104 The foul drainage, due to the levels on site, a gravity connection cannot be achieved and therefore a pumped solution is being proposed. Foul water will be pumped to the foul water sewers within the Moat Close subject to agreement with STW.
- 6.105 The proposed development would comply with Policy CM7 of the SADMP.

#### Ecology and Biodiversity

- 6.106 The application is accompanied by an Ecological Impact Assessment and Biodiversity Net Gain Assessment.
- 6.107 The assessment identifies and sets out the survey work undertaken in August and December 2024 to assess the ecological baseline of the site, and any likely impacts of proposed development.
- 6.108 There are no statutory sites of nature conservation importance were in the vicinity of the site. A number of non-statutory ecological designations were identified within 1km of the site, with the closest located approximately 140m to the south. At this distance, and with the proposed provision of green infrastructure / public open space, no significant impacts on the identified non-statutory designations are anticipated because of the proposed development.

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- 6.109 No evidence of badger was recorded during the survey work undertaken, however the species is known to be present within the local area. Therefore, an update badger survey is recommended to be undertaken prior to works commencing on-site, and appropriate sensitive working methods are to be maintained during construction.
- 6.110 Two trees along the northern site boundary have been identified as having the potential to support roosting bats. As such, additional survey work on these trees will be undertaken during the appropriate survey season, with results of these surveys provided during the determination period. If a roost or roosts are recorded, then working methods and mitigation will be agreed with Natural England (NE) as appropriate. Mitigation could include the provision of bat boxes within the site. In any case, approximately 20 bat boxes will be provided within new buildings across the site, facing areas of public open space / boundary vegetation, where possible.
- 6.111 Static bat detector surveys will be undertaken during the appropriate survey season in 2025 to further assess the local bat assemblage and impact of the removal of much of hedgerow H1. It is considered however that the retention of other boundary habitats and the creation of native habitats within the on-site green infrastructure will enhance foraging and commuting opportunities for the local bat assemblage in the long term.
- 6.112 Given the presence of waterbodies within 500m of the site, the proposed development will seek to enter the NE Leicestershire District Level License (DLL) scheme.
- 6.113 Common reptile species are known to be present in the area and as such precautionary working methods will be employed during construction to protect individual reptiles, should they be present within the site at the time of works.
- 6.114 The site provides opportunities for a range of breeding birds, including ground nesting species, and as such a scoping bird survey will be undertaken in April /

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May 2025. It is anticipated that the creation of native habitats within the proposed green infrastructure will enhance foraging and nesting opportunities for a range of common and widespread bird species in the long term.

6.115 In terms of biodiversity, the site is dominated by arable land of low ecological value. Habitats of greater ecological value are present within the site in the form of hedgerows and woodland. With native habitats created within the proposed green infrastructure, including scrub, woodland, wildflower grassland and hedgerow planting, it is demonstrated that the proposed development can achieve a 10% gain in habitat and hedgerow biodiversity. Achieving the 10% net gain in biodiversity is an environmental benefit of the proposals.

6.116 The proposed development would comply with Policy DM6 of the SADMP.

#### Noise

6.117 The application is accompanied by an Acoustics Assessment. The report sets out that detailed noise assessments of the site during typical conditions have been undertaken in accordance with best practice.

6.118 Acoustic modelling has demonstrated that, based on the current site layout, BS 8233's lower-level criterion of 50 dB LAeq,16hr will be satisfied at all garden locations on the Site through the provision of standard 1.8m high close boarded timber fencing.

6.119 With regards to internal acoustic conditions, the majority of new dwellings will satisfy the criteria in BS 8233 and ProPG through the provision of standard thermal double glazing and direct airpath window mounted trickle ventilators to achieve the whole-dwelling ventilation requirements of AD-F, with uprated acoustic glazing and ventilators required for the most exposed plots overlooking Bosworth Lane.

6.120 When considering the planning guidance outlined in AVOG, an open window acoustics strategy is permissible during periods of overheating. However, maximum levels will drive the acoustic design during the night-time period and

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therefore, further investigations may be required under AD-O at Building Control stage. Nevertheless, as this is not a planning consideration the application should not be delayed on these grounds.

6.121 It is therefore considered that with the implementation of the recommended mitigation strategy, the Site is suitable for residential development.

6.122 The proposed development would comply with Policy DM7 of the SADMP.

#### Air Quality

6.123 The application is accompanied by an Air Quality Assessment.

6.124 The report sets out that air quality within the area is generally good and, air quality objective levels are met throughout the Council's administrative area. Since 'relevant exposure' is already present adjacent to the site, i.e., existing residential dwellings are present adjacent to the site and local roads, and these have already been considered within HBBC's reviews and assessments, the same conclusions will apply for new dwellings on the site. Namely, all air quality objectives will be satisfied on the Site and at dwellings adjacent to the routes to the site.

6.125 Since the air quality assessment indicates that annual mean air quality objectives will be met at the most exposed receptor locations, and since the actual changes due to traffic generated by development are small and not significant, it can be concluded that the air quality over the Site is acceptable for residential development and that baseline plus proposed development traffic will not have any adverse impacts on ambient air quality for existing dwellings. The results do not indicate a requirement for more detailed dispersion modelling.

6.126 The proposed development would comply with Policy DM7 of the SADMP.

#### Agricultural Land

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- 6.127 The application is accompanied by a Soils and Agricultural Land Classification Report.
- 6.128 The site comprises Best and Most Versatile Agricultural Land with 33% being Grade 2 and 77% being Grade 3a.
- 6.129 Paragraph 187 of the NPPF seeks to ensure planning decisions contribute to and enhance the natural and local environment by recognizing the economic and other benefits of the best and most versatile agricultural land. The loss of such land represents a harm to be weighed in the planning balance, although must be considered in the context of the extent of land in the surrounding area, and across the Borough as a whole, that is also BMV.
- 6.130 Below is an extract of the Natural England Agricultural Land Classification map (2011) identifying the majority of land in the surrounding area as being Grade 2 or 3. There is no land on the identified map which is not capable of being BMV (noting these maps do not differentiate between Grade 3a and 3b).



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6.131 The loss of best and most versatile agricultural land has been considered in recent appeals whereby one Inspector found minor adverse harm, and the other noted no material difference to food production because of the inevitable loss of this land type within the borough to meeting housing need; see the following extracts:

6.132 For appeal Ref: APP/K2420/W/22/3301735, Land off Sketchley Lane, Burbage, Hinckley, the Inspector concluded the following:

*'24. The site contains Grade 2 and 3 agricultural land classified as being amongst the Best and Most Versatile (B&MV). Whilst the proposal would result in the permanent loss of some B&MV land, albeit on a materially smaller scale than that previously proposed, I have no reason to disagree with my colleague or the lpa that its loss would represent an adverse effect of minor significance.'*

6.133 More recently, for appeal Ref: APP/K2420/W/23/3330774, Land off Desford Lane, Ratby, Leicestershire LE6 0HF, the Inspector concluded the following:

*'41. The development would give rise to the loss of a small amount of best and most versatile agricultural land. The loss of agricultural land does not form a reason for refusal on the Council's decision notice although it is a matter raised in evidence. I was informed that almost all agricultural land in the borough falls within this category and therefore any housing development is likely to result in such a loss. Given that to be the case, I consider that the loss of this relatively small parcel of land for agriculture would not cause any material difference to food production because such a loss is inevitable if the borough is to meet its housing requirements.'*

#### Mineral Safeguarding

6.134 The application is accompanied by a Mineral Safeguarding Assessment.

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- 6.135 The site is located within a Mineral Safeguarding Area relating to sand and gravel within the superficial glaciofluvial deposits.
- 6.136 Any proposal to extract the minerals, either in full or as a proportion, would result in unacceptable environmental impacts on the residential properties in the surrounding area and require the import of a significant volume of material to raise site levels to support the development platform. Environmental impacts would be exacerbated given the absence of transport networks other than roads.
- 6.137 The siting of the proposed residential development would not lead to additional sterilisation of mineral resource on adjacent sites given that the glaciofluvial deposits are not mapped to the north, north-west, and are anticipated to be in limited thickness to the south-west. Additionally, the presence of agricultural infrastructure to the south-west would limit mineral extraction.
- 6.138 Based on the above assessment, it is considered that the site meets the criteria set out in Policy M11 for non-mineral development to be acceptable in a Mineral Safeguarding Area.

#### Sustainable Design and Technology

- 6.139 The requirements set out within Core Strategy policy 24: Sustainable Design and Technology requires residential developments to meet identified standards. The standards set out within the policy are out-of-date and have been superseded by new building regulations as referred to above.
- 6.140 Policy DM10 of the Site Allocations and Development Management Policies DPD requires development to maximise opportunities for the conservation of energy and resources through design, layout, orientation and construction.
- 6.141 The proposed development will follow the established Fabric First approach of Be Lean, Be Clean, Be Green, ensuring compliance with the latest Part L Building Regulations. Additionally, the proposal will include low and zero

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carbon technologies, likely to include solar photovoltaic panels and air source heat pumps.

6.142 With the proposals being designed to meet and/or exceed building regulations, the proposals will comply with Core Strategy Policy 24 and are capable of complying with the requirements of Policy DM10, as will be demonstrated at Reserved Matters/Detailed Design Stage.

#### Draft Heads of Terms

6.143 This section identifies the anticipated s106 Agreement draft Heads of Terms, potentially required to mitigate the effects of the proposed development. Any planning obligations will be the subject of discussions during the determination of the application and assessment of compliance with the relevant tests as set out at paragraph 58 of the NPPF and in accordance with Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 requiring that obligations are: necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

- Affordable Housing - 40% affordable housing to be delivered on-site
- Community Health and Well-being Centre or Community Shop – provision of a serviced site and transfer of the land for future provision
- Health – financial contribution towards construction of medical facilities, in addition to point 2 if provided as a Community Health and Well-being Centre
- Community Shop contribution – contribution towards the construction of a Community Shop in addition to point 2 if provided as a Community Hub
- School playing and sports pitches- transfer of the land for future provision

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- Education – financial contribution towards education
  - Open space – provision and maintenance of open space

#### Planning Balance

6.144 This section sets out the benefits and harms of the proposed development and then continues to undertake a planning balance, with the application of the 'titled balance' in accordance with Paragraph 11d) of the NPPF.

6.145 Benefits of the proposed development are as follows:

- Delivery of Housing – as set out above, the Council are estimated to be able to demonstrate only 2.84 years of deliverable housing sites against the local housing need, which represents a significant shortfall of 1,474no. of dwellings, the adopted plan is incapable of remedying the shortfall and there is no established short-medium term plan-led solution to resolve to position either. The application site is suitable for development, available now and could deliver a meaningful contribution to the Council's five-year land housing supply. Considering this, delivery of housing should be afforded significant weight.
- Delivery of Affordable Housing – the proposals will deliver up to 80no. affordable dwellings. It has previously been accepted by the Council, in the Statement of Common Ground for the Brascote Lane appeal decision, that there is an acute need for affordable housing in the borough, that the target within the Core Strategy is not being met and the latest estimates of affordable need set a far higher requirement of 498 affordable dwelling per annum compared to the adopted target of only 105 dwellings per annum (see the HEDNA). In that appeal, which would have delivered 95no. affordable homes, the Inspector agreed with the acute affordable need and attributed substantial positive weight to that matter.

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- Provision of School Sports and Playing Pitches – as set out above, the primary school may be required to expand to accommodate a deficit in school place capacity, because of existing commitments and requirements generated by this development. The land being offered may assist in facilitating the extension of the school without a loss in sport and playing pitches currently on the site. Notwithstanding the potential need for mitigation or otherwise, delivery of the sports and playing pitches offer an opportunity to enhancing existing provision at the school. This has the potential to be a significant community benefit given the lack of land availability alternatives surrounding the school, dependent on progressing discussions with the LEA on need.
  - Provision of a Community Health and Well-being Centre – capacity at the existing Medical Practice is an identified issue. The proposed development offers a potential solution to facilitate further consulting space, assisting in alleviating current issues. Subject to progressing discussions with key stakeholders , this has potential to be a significant community benefit. Or
  - Provision of a Community Shop – The primary goal of a community shop is to serve the needs of the local community, rather than solely focusing on profit. Community shops often go beyond simply selling groceries and offer a range of additional services, such as post offices, cafes, or meeting spaces, acting as a hub for community activities and offer space for local businesses to do pop-up shops. Community shops often create employment and volunteering opportunities, further strengthening the local community. They can become a central point for community events, activities, and social interaction, fostering a sense of belonging and addressing isolation. As identified by the community, a community shop has the potential to assist in limiting/reducing congestion in the village.

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- Provision of Open Space – the proposed development generates a requirement for 1.98 hectares of play and open space but the proposal seeks to deliver 2.9 hectares. The overprovision of open space offers social benefits that weigh in favour of the proposal.
  - Pedestrian School Access – the proposed development will deliver a pedestrian access directly from the site into the land to be gifted to the school for use by pupils and school-users. It was highlighted by the parish council and residents during consultation that there is a concern regarding vehicle travelling to the school to drop children off from the previous phases of residential development and that direct access from the application site would reduce walking distances and assist in alleviating existing congestion. This benefit is afforded positive weight.
  - Economic Benefits – the proposed development would generate temporary economic benefits through direct and in-direct employment during construction as well as long term benefits for the lifetime of the development through additional expenditure at local facilities and services by future occupants. This matter could be afforded moderate weight, as was the case in the Brascote Lane appeal decision.
  - Biodiversity Net Gain – the proposal will result in a minimum net gain of 10% in biodiversity habitat units on site and is a benefit to be afforded positive weight.

6.146 Harms of the proposed development are as follows:

- Conflict with the spatial strategy – the proposed development results in a degree of conflict with the spatial strategy as a result of the site being located outside of the settlement boundary on land designated as countryside. However, for the reasons set out above, the conflict with the relevant policies should only be afforded limited weight, given the significant shortfall in housing land supply

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- Landscape and visual harm – the landscape harm does not result in conflict with Development Plan policy; criteria i) of Policy DM4 of the SADMP seeks to avoid significant adverse effects and the proposals result in lesser harm. Notwithstanding compliance with Policy DM4, any landscape harm is to be weighed in the planning balance. The landscape and visual effects are largely contained and localised, at Year 15 the landscape effects are assessed as moderate, and in terms of public viewpoints, no effects are recorded at Year 15 that are above moderate/minor, with most below this. Whilst some effects are noted on residential receptors, these are not significant (no more than moderate/minor), and notwithstanding, there is no right to a view and no harm would be caused to residential amenity. It should be noted that development on any greenfield site will cause a degree of landscape and visual harm and this must be considered in the context that the local planning authority are reliant on greenfield sites to meet their current and future housing needs. In light of this, limited weight should be afforded to landscape and visual harm.
  - Heritage harm – the proposed development would result in less-than-substantial harm at low and very low levels to the Grade I listed Newbold Verdon Hall, the Scheduled moated site, the associated pavilion, the Church of St James and Newbold Verdon Conservation Area, The value of the assets is recognised, particularly the Grade 1 Verdon Hall and Scheduled moated site, and the proposals have sought to mitigate the effects of development as far as reasonably practicable. As set out, the public benefits clearly outweigh the harm identified in accordance with the tests in the NPPF and the development plan, undertaken in accordance with and cognisant of the statutory duty in the Planning (Listed Buildings and Conservation Areas) Act 1990. Whilst there is harm to heritage assets, the proposal is compliant with the development plan and the NPPF, but nonetheless, the heritage harm is weighed in the planning balance.

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- Loss of Best and Most Versatile agricultural land – the site results in loss of circa 8.74 ha of BMV agricultural land; 33% being Grade 2 and 77% being Grade 3a. Whilst the benefits of such land are recognized, this is to be considered in the context of the extent of BMV across the local area and Borough, which is extensive, meaning there are limited opportunities to deliver the housing need without use of such land. As such, this should be afforded limited weight.

6.147 Having set out the benefits and harms, the planning balance is set out below. For the reasons set out within the Principle of Development section, the balance is undertaken in accordance with Paragraph 11d) of the NPPF which sets out for the presumption in favour of sustainable development for decision-making as:

*'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<sup>7</sup> 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, individually or in combination<sup>9</sup> .'*

6.148 There are no policies within the Framework that protect area or assets of particular importance which provide a strong reason for refusing the development proposed. It is acknowledged that, in accordance with footnote 7, protected areas and assets do include designated heritage assets, however,

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as identified in the Heritage section above, the public benefits outweigh the less-than-substantial harm and therefore there is no strong reason for refusing the application following this test. Therefore, the tilted balance is not disengaged by Paragraph 11)d)i).

6.149 Turning to Paragraph 11)d)ii), the benefits and harms of the proposals have been set out above. The benefits of the development are numerous and significant. Against this, there are four instances of harm, none of which, individually and/or cumulatively, are considered to amount to significant harm. In light of this, it can only be concluded that the adverse impacts of allowing development, clearly, would not significantly and demonstrably outweigh the benefits

6.150 Considering the above, planning permission should be granted without delay.

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## 7. Conclusions

- 7.1 Cerda Planning Limited has been instructed by Bloor Homes (East Midlands) to prepare an outline planning application (access only) for erection of up to 200 dwellings, a community health and well-being hub of up to 108 sqm gross external area and provision of up to 0.5 hectares of school playing fields and sport pitches, together with landscaping, open space, infrastructure and other associated works, on Land off Bosworth Lane, Newbold Verdon.
- 7.2 The application site is located outside of but adjacent to the settlement boundary of Newbold Verdon which is identified in the Local Plan as a Key Rural Centre, the second tier in the settlement hierarchy and a sustainable location for residential development where residents can meet their day-to-day needs without having to travel long distances into urban areas.
- 7.3 The adopted Local Plan is out of date, the Council are presently reliant on unallocated sites outside of settlement boundaries to try to meet their housing need, and notwithstanding, are presently estimated to be unable to demonstrate a five-year supply of deliverable housing sites against local housing need, with no short-term plan-led solution. In light of this, the presumption in favour of sustainable development as set out at Paragraph 11d) is engaged.
- 7.4 As demonstrated through the submission, there are no policies within the Framework that protect areas or assets of particular importance which provide a strong reason for refusing the development proposed and therefore the presumption is not disengaged by 11)d)i).
- 7.5 The benefits of the development are numerous and significant. Against this, there are four instances of harm, none of which, individually and/or cumulatively, are considered to amount to significant harm. In light of this, it can only be concluded that the adverse impacts of allowing the development, clearly, would not significantly and demonstrably outweigh the benefits

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7.6 Considering the above, planning permission should be granted without delay.



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## Appeal Decision

Hearing held on 23 April 2024

Site visit made on 24 April 2024

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2024

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Appeal Ref: APP/K2420/W/23/3331081

Land East of the Windmill Inn, Brascote Lane, Newbold Verdon

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Richborough Estates, Messrs Longwill, Jenny Nicholls & Jason Nicholls against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 22/00277/OUT, dated 15 March 2022, was refused by notice dated 21 September 2023.
  - The development proposed is the construction of up to 239 dwellings with associated landscaping, open space, drainage infrastructure and associated works.
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### Decision

1. The appeal is allowed, and planning permission is granted for the construction of up to 239 dwellings with associated landscaping, open space, drainage infrastructure and associated works at Land East of the Windmill Inn, Brascote Lane, Newbold Verdon in accordance with the terms of the planning application Ref 22/00277/OUT, dated 15 March 2022, and subject to the conditions in Annex C.

### Preliminary Matters

2. The proposal is in outline with access applied for in full. This is the vehicular and pedestrian access from Brascote Lane as set out on drawing Ref T20517 001 Rev C. An Illustrative Layout has also been submitted, on drawing Ref n1741 006 Rev C. I have had regard to this as appropriate, whilst acknowledging its illustrative nature.
3. Towards the end of 2023, a revised version of the National Planning Policy Framework (the Framework) was released. This was discussed at the Hearing and I refer to the revised version of the Framework as appropriate throughout my Decision.
4. The final s106 Planning Obligation, dated 2 May 2024, (the s106) secures:
  - the provision of 40% affordable housing provision on site, split into 56.25% Affordable Housing for Rent, 18.75% Shared Ownership Dwellings, and 25% First Homes;
  - 4.95ha of open space to be provided as publicly accessible, including at least 3.35ha of ecological enhancements through new woodland planting, meadow areas, an ecological pond and reinstated historic hedgerow boundaries;
  - **an equipped children's play space;**

- the future management and maintenance of the open space, including contributions;
  - contributions towards off-site open space and maintenance, civic amenities, early years education, SEND education facilities, secondary school facilities, post-16 education, health facilities, and library facilities;
  - travel packs for the future occupants and related contribution;
  - bus passes providing free travel for six months for future adult occupants;
  - Travel Plan monitoring contribution;
  - Council and County Council monitoring fees contributions; and,
  - Payment of Council **and County Council's** legal fees.
5. The Council's and the County Council's Community Infrastructure Levy (CIL) Compliance Statements set out the detailed background and justification for each of the obligations. I am satisfied that the provisions of the submitted agreement would meet all the tests set out in Regulation 122 of the CIL Regulations 2010 (as amended) and the tests at Paragraph 57 of the Framework, and I have taken them into account. I return to matters of weight and detail of the s106 throughout my Decision as appropriate.
6. A duplicate planning application, Ref 23/01037/OUT, was submitted by the appellant. This was taken to the March 2024 Planning Committee where it was refused for the same reasons as the application that is the subject of this appeal.
7. Submissions were received during and after the Hearing, as set out in Annex B. I am satisfied that the material was directly relevant to, and necessary for, my Decision. All parties were given opportunities to comment as required and there would be no prejudice to any party from my consideration of these documents. The appeal is therefore determined on the basis of the additional documents.

### Main Issues

8. The main issues are:
- whether or not the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance;
  - the effect of the proposal on the character and appearance of the area, particularly regarding landscape; and,
  - whether or not the site is in a suitable location for housing, with adequate access to services.

### Reasons

#### *Principle of development*

9. The Core Strategy 2009 (the CS) sets out the spatial strategy for the Council, which is for the distribution of homes to be focussed on the larger settlements. Newbold Verdon is a Key Rural Centre, second in the hierarchy. Policy 11 of the CS allocates a minimum of 110 dwellings to the settlement, to be located within its defined settlement boundary (the SB), as set out in Policy 7.
10. The appeal site lies outside the SB of Newbold Verdon. It is therefore in the **'countryside' for the purposes of planning policy. Policy DM4 of the Site Allocations and Development Management Policies DPD, July 2016 (the SA**

DPD) states that development in the countryside is unsustainable unless it meets one of five criteria, as set out at parts a) to e) of the policy. It is common ground, and I agree, that the proposal does not meet any of these criteria. It therefore conflicts with Policy DM4 of the SA DPD and, by extension, with the overall spatial strategy of the Council.

11. However, the CS is based on a target of 450 dwellings per annum (dpa) for the period 2006 to 2026, which is derived from the East Midlands Regional Plan. As set out in the Framework<sup>1</sup>, the starting point for establishing the housing requirement for an area should be the Standard Method. I have not been provided with the most up-to-date housing requirement calculation using this method, but it is common ground, and I agree, that any such calculation would likely result in a higher annual requirement. In addition, it is likely that the **Council will need to provide for at least some of Leicester's unmet need, under the Duty to Cooperate**<sup>2</sup>.
12. Furthermore, the Council has not been meeting its current target, and the net housing completions for the period 2006 to 2022 were 422 dpa<sup>3</sup>. Specifically, two large Sustainable Urban Extensions were proposed as part of the CS, and neither project has started, **or is even included within the Council's current** five-year supply of deliverable housing sites. In addition, a large proportion of the housing that has been granted planning permission during the CS plan period has been on greenfield land, ie outwith the spatial strategy.
13. It is therefore highly likely that the Council will need to reflect a higher housing requirement in its emerging spatial strategy. This is being progressed through an emerging Local Plan (the eLP). However, a previous Regulation 19 version, which was consulted upon in 2022, has since been withdrawn. The Council is re-visiting the eLP and therefore also its spatial strategy. The latest Local Development Scheme, dated January 2024, timetables a Regulation 18 consultation for the eLP in summer 2024, leading to eventual adoption in early 2026.
14. Therefore, as I write this Decision, we do not know what the spatial strategy or site allocations will be. However, given the likely requirement to accommodate greater growth than reflected in the CS and the reliance even within the CS plan period on greenfield development, it is likely that this will include either greater flexibility for development in the countryside and/or further site allocations on greenfield land.
15. Pulling all this together, the spatial strategy in the CS is in broad accordance with the Framework, by focusing development in the most accessible locations. However, this is reliant on an out-of-date housing requirement that is highly likely to increase. I therefore place limited weight on the conflict I have identified with Policy DM4 of the SA DPD, and the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance.

#### *Character and appearance*

16. Policy DM4 of the SA DPD sets out five criteria that must be met by development in the countryside. These are listed as additional criteria to be

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<sup>1</sup> Paragraph 61

<sup>2</sup> See Leicester & Leicestershire Housing & Economic Needs Assessment Final Report, dated June 2022

<sup>3</sup> See Residential Land Availability Monitoring Statement, 1 April 21 - 31 March 22

met by development that has met at least one of the first five criteria. By default, therefore, the proposal cannot meet these criteria. However, for the purposes of the appeal, the Council has approached the policy flexibly and considers the criteria i) to v) to help frame its assessment of the acceptability or otherwise of the appeal proposal. I have adopted this approach as a useful framework for assessing the proposed development. It is common ground<sup>4</sup>, and I agree, that only criteria i) is applicable to the appeal proposal. This states that a proposal must not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.

17. **The Council accepts the conclusions of the appellant's Landscape & Visual Appraisal**, dated 11 March 2022 (the LVA). This concludes that the appeal site is typical of the wider landscape character areas (LCAs)<sup>5</sup>, with no fundamentally defining features. It is visually highly contained, being surrounded to all but one relatively small boundary by substantial hedgerows and tree lines. Where visible from the south, east or west, for example from a footpath to the east, it is seen in the context of the existing housing in Newbold Verdon as a backdrop.
18. The appeal site is set slightly away from the village, with an intervening field and allotments. However, as approached from the south on Brascote Lane, there is already an ill-defined edge to the village. The village sign and speed limit signs are further to the north, at the point the existing homes in the village begin. However, the two allotment gardens on the lane, and the Windmill Public House, draw development further south, towards the highly dispersed settlement of Brascote.
19. The proposed change from an arable field to a residential development, albeit with substantial areas of open space and parkland, would affect the intrinsic character of the site. However, this would be visually self-contained. The proposed open space provides the opportunity to incorporate positive landscape features, and this could be controlled by condition. Planting could also be required by condition to reinforce the existing boundary planting, and to provide new planting to the small currently open boundary to the south east corner of the site. The LVA therefore concludes, and I agree, that the resultant effects on the landscape character of the area, and the two LCAs, would be neutral.
20. There would, nevertheless, be some harmful effects on the character and appearance of the area from the proposal, resulting from the change from a field to a residential development, including to the users of a nearby footpath. I acknowledge the importance of this footpath to some local residents because it **is part of 'the block', a commonly used walking route on the edge of Newbold Verdon**. However, the LVA assesses these as being at most moderate effects, and with the effects from many locations being minor or even negligible. For the reasons set out above, I agree with this assessment.
21. Overall, therefore, the proposal would result in limited harm to the character and appearance of the area. This fails to comply with Paragraph 180 of the Framework, which aims to preserve the intrinsic character and beauty of the countryside. However, it complies with Policy DM4 of the SA DPD, which

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<sup>4</sup> Confirmed verbally at the Hearing

<sup>5</sup> Bosworth Parklands LCA and Newbold and Desford Rolling Farmland LCA

requires a significant adverse effect on the character and landscape character of the countryside before it finds a proposed development to be unacceptable.

### *Accessibility*

22. The appeal site is on the edge of, but outside, Newbold Verdon. Newbold Verdon provides a reasonable range of services and facilities, including pubs, a primary school, a Co-op, churches, a post office, and other shops and facilities. The walking distances to the facilities are agreed<sup>6</sup> as is the methodology of measuring from the middle of the appeal site to provide an average measurement. Main Street, with the majority of the services, is around 1km from the site. Apart from the Windmill Pub, next to the site, the other services and facilities are between 850m and 1.5km distant. The distances are therefore mostly beyond the 800m distance recommended to create a walkable neighbourhood in Manual for Streets<sup>7</sup> (MfS) but within the upper walkable limit of 2km set out in the same document.
23. The MfS distances are guidelines and not policy requirements. Policy DM17 of the SA DPD seeks to ensure convenient and safe access by walking. In this regard, the appeal site is linked to the services and facilities by an existing pavement running along Brascote Road into the village centre. This is a reasonable width and is lit. Within the village, there are a variety of pavement widths and styles, as is to be expected in a village that has grown organically over time. Vehicular traffic is relatively light. There are also alternative routes at least partially using off-road footpaths, for example to the north east. The walking distances to the services and facilities are therefore relatively long but the attractiveness and useability of the walking routes is relatively high.
24. The appeal site is within a reasonable walking distance of bus stops along Main Street. Bus service 153 runs from these stops. It runs roughly hourly, including both early in the morning and into the evening, Monday to Saturday. There are no services on Sundays. This is a reasonable bus service for a rural location, providing a useable service to the larger service centres of Market Bosworth, Desford and Leicester. In addition, the s106 secures travel packs and up to two bus passes providing free travel for six months for future adult occupants.
25. Overall, I think it is likely that some journeys would be undertaken by foot or by bus. There would also, however, likely be a reasonable degree of reliance on the car for many of the journeys from the site. Given the relatively rural location of both the appeal site and Newbold Verdon, this is an acceptable level of accessibility, because there are genuine alternatives to the car for many journeys. The proposal is, therefore, in a suitable location for housing, with adequate access to services and the proposal meets the requirements of Policy DM17 of the SA DPD, which requires good walking access to services and facilities and where the need to travel will be minimised and the use of sustainable transport modes can be maximised.

### *Other Matters*

26. The Church of St James is a Grade II listed building<sup>8</sup>. It is a medieval church, partially rebuilt in 1899. The significance of the building, as it relates to the

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<sup>6</sup> See Table 1, Statement of Common Ground

<sup>7</sup> See Section 4.4

<sup>8</sup> List entry number 1115770

appeal, is its setting in the centre of Newbold Verdon, in the backdrop to the appeal site. I have therefore had regard to s16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended). There is no known historic association between the church and the appeal site. The site is separated from the church by the village. There is limited inter-visibility, and where there is it is a common view of the church as can be seen from a number of locations on the outskirts of Newbold Verdon. The appeal proposal would not, therefore, affect the setting of the church, and it would preserve the setting of the building.

27. A Neighbourhood Plan for Newbold Verdon is being prepared. However, it is in the very early stages. It is not known what the policies of the plan will be. It is therefore common ground, and I agree, that no weight can be placed on this emerging document.
28. Several letters of objection have been received from neighbours, and some neighbours and Councillors spoke at the Hearing. They raise several concerns, some of which I have dealt with above, and others which I consider below.
29. The proposal would result in a biodiversity net gain, as could be secured by condition. This is because the appeal site is currently of low ecological value because it is mostly a field, and the proposal includes substantial areas of open space, landscaping, and other biodiversity mitigation measures such as new woodland planting, meadow areas, and an ecological pond. Leicestershire County Council's **ecologist supports the proposal**.
30. Disruption during construction, including highway safety, could be adequately controlled by condition to require a Construction Traffic Management Plan. As confirmed by the Local Lead Flooding Authority, the approach to sustainable urban drainage would be acceptable, including the use of detention basins, swales and tree pits to ensure an acceptable surface water discharge rate. The proposal would result in the loss of agricultural land, however no evidence has been provided to me that the land is of particularly high value, or is protected in any way. An Air Quality Assessment, dated February 2022, has been submitted by the appellant and it concludes that, subject to mitigation measures, the effect of the development on local air quality is predicted to be 'negligible'. **I have no reason to disagree with this conclusion.**
31. Both the County and Borough Council have considered the effect of the proposal in local infrastructure, as has the NHS with regard to the effect on the local GP Surgery. A range of mitigation measures are requested and have been secured in the s106, including contributions towards education, health and libraries. Subject to these measures, the proposal would have an acceptable effect on local infrastructure.
32. **The appellants' Transport Assessment, dated February 2022 (the TA)** assesses the likely traffic generation from the proposal. The Highway Authority (the HA) has considered the TA and supports its conclusions, which are that all affected road junctions would still operate well within capacity, apart from Barlestone Road/Bosworth Lane junction which would still be within capacity. National Highways has also confirmed that the proposal would be unlikely to have a significant impact on the operation of the Strategic Road Network, ie the M1, A46 and M69. I am therefore confident that the proposal would not give rise to any unacceptable increase in traffic on the surrounding road network with regard to the effect on the free-flow of traffic.

33. The effect on users of the existing allotments would be negligible, because substantial screening is proposed between the existing allotments and the proposed development. There would also be a beneficial effect on the users of the allotments because car parking for the allotments is proposed as part of the Parameter Plan. The detail of this could be agreed through reserved matters and condition discharge submissions.
34. Whilst the reason for refusal references highway safety, the Council agreed in the Statement of Common Ground<sup>9</sup> that it no longer disputes this issue. The HA also raises no objection. The proposed vehicular access has good visibility in both directions, along a long straight road, in a location where the undulations **don't materially affect visibility. The levels of on-site car parking** would be confirmed at reserved matters stage and there is no reason to believe that adequate on-site car parking would not be provided. There would not, therefore, be any material increase in on-street car parking pressure as a result of the proposal. Accident data, as provided in the TA, confirms that the volume and pattern of accidents recorded in the area does not give any undue cause for concern. Any increase in traffic would be relatively low and would not give rise to any unacceptable harm to highway safety.

## Planning Balance

### *Harms*

35. There is conflict with Policy DM4 of the SA DPD because the proposal is for development defined by that policy as being unsustainable in the countryside. However, this only carries limited negative weight because the spatial strategy of the Development Plan is based on an out-of-date housing requirement.
36. The proposal would result in limited harm to the character and appearance of the area. Whilst complying with Policy DM4 of the SA DPD, this nevertheless weighs negatively in the planning balance. I place limited negative weight on this factor.

### *Benefits*

37. Up to 144 market homes are proposed, in an acceptable housing mix, and on a site that is in a suitable location for housing, with adequate access to services. I place substantial positive weight on this factor.
38. Up to 95 affordable homes are secured through the s106. It is common ground that there is an acute need for affordable housing in the Borough. The CS target for affordable housing delivery is 2,090 affordable homes during the plan period of 2006 to 2026, at 105 dpa. The Council's Residential Land Availability Statement 1 April 2021 – 31 March 2022 identifies<sup>10</sup> that, as of 1st April 2022, a gross total of 1,463 affordable dwellings have been completed over a 16-year period since 2006, equating to 91 dpa and therefore below the CS target. In addition, the latest estimates of affordable housing need set a far higher requirement, for example 498 dpa as set out in The Leicester and Leicestershire Housing and Employment Needs Assessment, June 2022. I therefore agree that there is an acute need for affordable housing and I place substantial positive weight on this factor.

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<sup>9</sup> Paragraph 7.45

<sup>10</sup> Table 8

39. The proposed development would provide temporary employment arising from construction. It would also provide long term economic benefits from expenditure on local goods and services by the future occupants of the scheme. I place moderate positive weight on this factor.
40. A wildflower meadow, tree planting and an ecological pond, amongst other ecological enhancements, are all proposed and could be secured by a mixture of planning conditions and the s106. A Biodiversity Net Gain (BNG) assessment concludes that there would be a net biodiversity gain of 3.53 habitat units (12.13%) alongside a net gain of 5.62 hedgerow units (24.60%). I place moderate positive weight on the proposed ecological enhancements.
41. The level of public open space proposed is significantly in excess of the open space requirement at 1.635ha, with the s106 securing 4.95ha of open space, **including a children's play** area. Additional recreational routes are also proposed within the site. **The Council's** Open Space and Recreation Study, October 2016 concludes that there is a deficiency in all types of open spaces in Newbold Verdon<sup>11</sup>. The proposed open space and play facilities would benefit both the future occupants of the proposed development and existing occupants within the village. I place moderate positive weight on these factors.

### *The balance*

42. In accordance with s38(6) of the Planning and Compulsory Purchase Act 2004, my determination of this appeal must be made in accordance with the Development Plan unless material considerations indicate otherwise. There would be conflict with the spatial strategy which therefore represents a conflict with the Development Plan when read as a whole. However, an important material consideration is that the spatial strategy is reliant on an out-of-date housing requirement. The housing requirement cannot be divorced from the spatial strategy because one directly informs the other. I therefore place limited weight on this conflict. There would also be limited harm to the character and appearance of the area.
43. It is common ground, and I agree, that the Council cannot demonstrate a five **year supply of housing sites**. **The 'tilted balance' is** therefore technically engaged. However, as set out above, the benefits of the proposal are many and weighty. The harms are few and of lesser overall weight. The material considerations therefore indicate that the proposal is acceptable and it is not **necessary to engage the 'titled balance'**.

### Conditions

44. A schedule of conditions agreed between the main parties was discussed at the Hearing. I have considered the conditions on this basis, and in the light of government guidance on the use of conditions in planning permissions. In addition to the standard reserved matters condition, a condition specifying the relevant drawings provides certainty. With regard to the other conditions:
  - the two time limit conditions adopt shorter timescales than normal, which was agreed between the parties, and are necessary to ensure that the proposal comes forward in a timely manner;
  - the housing mix condition is necessary to ensure that the final housing mix is appropriate for the needs of the area;

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<sup>11</sup> Table 19.2

- the finished levels, materials, tree protection, external lighting, waste and recycling storage, Illustrative Masterplan, and tree retention conditions are necessary to protect the character and appearance of the area;
- the Construction Environmental Management Plan (CEMP), Biodiversity Net Gain, tree protection, external lighting, tree retention, and bird nesting conditions are necessary to protect and enhance biodiversity on the appeal site;
- the CEMP, Construction Traffic Management Plan (CTMP), external lighting, and noise conditions are necessary to protect the living conditions of neighbouring occupiers;
- the CEMP, CTMP, waste and recycling storage, and access arrangements conditions are necessary to protect highway safety;
- the CEMP, Surface Water Drainage Scheme (SWDS), and Surface Water Drainage System conditions are necessary to appropriately control surface water drainage;
- the Travel Plan and storage of cycles conditions are necessary to encourage the use of transport options other than the car; and,
- the CEMP, land contamination, waste and recycling storage, storage of cycles, infiltration testing, and Written Scheme of Investigation (WSI) conditions are necessary to ensure compliance with these technical details.

45. The main parties requested a condition requiring the provision of electric vehicle charging points. However, this is now a requirement of Building Regulations and is not, therefore, necessary. They also requested a condition requiring the installation of broadband to the proposed homes but this is not a material planning consideration

46. The CEMP, CTMP, materials, land contamination, tree retention, external lighting, waste and recycling storage, secure cycle storage, SWDS, infiltration testing and WSI conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measure which could be used.

## Conclusion

47. For the reasons above, the appeal is allowed.

*O S Woodward*  
INSPECTOR

## ANNEX A: APPEARANCES

### FOR THE APPELLANT:

Sarah Reid KC	Kings Chambers
David Pendle MRTPI	Marrons
Jonathan Berry CMLI AIEMA	Tyler Grange
Gerard McKinney CMILT	Hub Transport Planning

### FOR THE LOCAL PLANNING AUTHORITY:

Laura Ashton MRTPI	Planning Consultant
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### INTERESTED PERSONS:

Councillor Mark Bools	Ward Councillor, Newbold Verdon
Rachel Loughlin	Local resident
Councillor Richard Statham	Ward Councillor, Newbold Verdon
Jay Matthews	Local resident
Mike Hemming	Local resident
Roger Watson	Local resident
Roger King	Local resident
Councillor Andrew Tessier	Chair of the Newbold Verdon Neighbourhood Plan

## ANNEX B: DOCUMENTS

- 1 Final Statement of Common Ground, dated 14 March 2024
- 2 Minutes of the Planning Committee on 19 September 2023
- 3 Relevant extracts from the Hinckley and Bosworth Local Plan 2020-2039, Regulation 19 Consultation, dated February 2022
- 4 Relevant extracts from the Newbold Vernon Neighbourhood Plan 2022 – 2039, Pre-Submission Version, dated October 2021
- 5 Proposed Site Access Layout Ref 001 Rev C
- 6 Relevant extracts from the Hinckley and Bosworth Borough Council Local Development Scheme 2020 – 2025, dated January 2024
- 7 Bus Route 153 Timetable
- 8 Hunts Lane, Desford Location Plan Ref 09129-FPCR-XX-XX-DR-A-0001 Rev P01
- 9 Appeal Decision Ref APP/K2420/W/23/3330774
- 10 Appeal Decision Ref APP/K2420/W/23/3332401

## ANNEX C: SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall take place not later than one year from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: n1741 001; 004 Rev D; T20517 001 Rev C.

### Reserved matters

- 5) Any reserved matters application shall be accompanied by a scheme which details the proposed housing mix for the development which should be in accordance with the Council's adopted Development Plan and the housing needs of the area. The development shall then be completed in accordance with the approved details.
- 6) Any reserved matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings in relation to existing ground levels. The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. The development shall thereafter be carried out in accordance with the approved levels.
- 7) Any relevant reserved matters application submission shall be accompanied by a Biodiversity Net Gain Plan (the Plan). The Plan shall be based on the Biodiversity Net Gain (BNG) metric spreadsheet completed by Ramm Sanderson, dated 12/04/2022, and shall provide a net gain on the reported baseline habitat loss. The Plan shall include the following details:
  - a) Location plan of the areas to be used for BNG;
  - b) Description of existing habitats on site;
  - c) Description of planned habitat creation/enhancement, including species to be planted/sown;
  - d) Timetable for implementation of habitat;
  - e) Habitat management and monitoring plan including timetable for management routines and reviews, and strategy for any remedial measures, if and when required;
  - f) Mechanism for securing the implementation of the biodiversity offsetting and its maintenance/management for a period of 30 years in accordance with details approved in the Plan; and,
  - g) Number and location of bat and bird boxes to be provided across the site.

The Plan shall be supported by an up to-date BNG metric calculation using the latest DEFRA version of the metric. The Plan shall thereafter be implemented in accordance with the approved details.

#### Pre-commencement

- 8) No development shall commence until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the local planning authority. The Plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from air, dust, odour, noise, smoke, light and land contamination. The Plan shall detail how such controls will be monitored and a procedure for the investigation of complaints. The Plan shall detail how surface water drainage during construction will be managed. Site preparation and construction work shall be limited to between 0730 to 1800 Monday to Friday and 0800 to 1300 on Saturdays. There shall be no working on Sundays and Bank Holidays. The approved details shall then remain in force throughout the construction period.
- 9) No development shall commence until a Construction Traffic Management Plan, including as a minimum details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities and a timetable for their provision, has been submitted to, and approved in writing by, the local planning authority. The construction of the development shall thereafter be carried out in accordance with the Plan.
- 10) No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages have been submitted to, and approved in writing by, the local planning authority. The development shall thereafter be implemented in accordance with those approved materials.
- 11) Notwithstanding the recommendations within the Desk Study Report carried out by PJS Ref: PJSG21-47-RT-01-A, dated 24th February 2022, no development shall commence until a scheme for the investigation of any potential land contamination on the site has been submitted to, and agreed in writing by, the local planning authority. The scheme shall include details of how any contamination in accordance with the agreed details and any remediation works so approved shall be carried out prior to the first occupation of the development.
- 12) Development shall not commence until details of all trees, shrubs and hedges to be retained, including any trees located outside but adjacent to the site boundary, together with the means of protecting them from damage during the carrying out of the development, have been submitted to, and approved in writing by, the local planning authority. The approved means of protection shall be installed prior to the commencement of development and shall remain in place until the completion of the development.
- 13) No development shall commence until details of external lighting has been submitted to, and approved in writing by, the local planning authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles).

The lighting shall thereafter be installed, maintained and operated in accordance with the approved details.

- 14) No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted to, and approved in writing by, the local planning authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall thereafter be implemented and maintained in accordance with the agreed details.
- 15) Development shall not commence until a scheme that makes provision for the secure storage of cycles for each dwelling has been submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented in accordance with the agreed details.
- 16) Development shall not commence until a Surface Water Drainage Scheme has been submitted to, and approved in writing by, the local planning authority. The development must thereafter be carried out in accordance with these approved details and be completed prior to first occupation of the development.
- 17) Development shall not commence until infiltration testing has been carried out (or suitable evidence to preclude testing) to confirm or otherwise the suitability of the site for the use of infiltration as a drainage element, and this has been submitted to, and approved in writing by, the local planning authority.
- 18) Development shall not commence until a Written Scheme of Investigation (WSI) has been submitted to, and approved by, the local planning authority. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI, which shall include:
  - a) the statement of significance and research objectives;
  - b) the programme and methodology of site investigation;
  - c) recording and the nomination of a competent person(s) or organisation to undertake the agreed works; and,
  - d) the programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

#### Pre-occupation

- 19) Prior to first occupation of the development, details in relation to the long-term maintenance of the Surface Water Drainage System shall have been submitted to, and approved in writing by, the local planning authority. The System shall thereafter be maintained in accordance with these approved details in perpetuity.
- 20) Prior to first occupation of the development, the access arrangements shown on drawing Ref T20517.001 Rev C shall have been implemented in full. This shall include vehicular visibility splays of 2.4m x 160m at the site access point. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

For observation

- 21) The development hereby permitted shall be implemented in general accordance with the Illustrative Masterplan Ref n1741 06 Rev C and the Landscape Mitigation & Enhancements recommendations set out within the Design & Access Statement, dated March 2022.
- 22) If during development contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination and implementation has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out in accordance with the agreed implementation period.
- 23) During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
- 24) The Travel Plan shall be carried out in accordance with the details contained within the Travel Plan Ref T20517 Rev A, dated May 2023. A Travel Plan Coordinator shall be appointed from commencement of development until five years after first occupation. The Travel Plan Coordinator shall be responsible for the implementation of measures as well as monitoring and implementation of remedial measures.
- 25) No trees and shrubs shall be removed on site during the bird nesting season (1st March to 31st July inclusive).
- 26) All dwellings facing Brascote Lane should be provided with the approved mitigation measures as set out within the Noise Impact Assessment, dated February 2022. The approved mitigation measures shall be completed prior to the first occupation of each dwelling and retained thereafter.

===== END OF SCHEDULE =====





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## Appeal Decision

Inquiry held on 13-16 February 2024

Site visit made on 15 February 2024

**by Guy Davies BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 28<sup>th</sup> February 2024**

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### **Appeal Ref: APP/K2420/W/23/3330774**

#### **Land off Desford Lane, Ratby, Leicestershire LE6 0HF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd and Bletsoe against the decision of Hinckley and Bosworth Borough Council.
  - The application Ref 21/01295/OUT, dated 15 October 2021, was refused by notice dated 1 September 2023.
  - The development proposed is described as an outline planning application for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point. All matters reserved except for means of access.
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### **Decision**

1. The appeal is allowed and outline planning permission is granted for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point on land off Desford Lane, Ratby, Leicestershire LE6 0HF in accordance with the terms of the application Ref 21/01295/OUT, dated 15 October 2021, and subject to the 26 conditions in the attached schedule.

### **Preliminary Matters**

2. The description used on the application form and as set out in the banner heading above includes some wording that is superfluous because it is not a description of development. I have omitted it in the description used in my decision. It does not change the substance of the proposal.
3. The proposal is made in outline with all detailed matters reserved for later consideration other than for access. Access relates to the proposed vehicular access to Desford Lane and associated highway works. It does not extend to the internal road layout within the site as shown on the development framework plan, which is for illustrative purposes only.
4. A legal undertaking has been submitted which secures a number of planning obligations. I consider the undertaking later in my reasoning. The Council is satisfied that a combination of these obligations and conditions overcomes its concerns around the impact of the development on public facilities and services. Consequently, that reason for refusal no longer needs to be considered as a main issue in the appeal.
5. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties were able to respond to

those changes in preparing their evidence and at the inquiry. I have taken the revised Framework into account in reaching my decision.

6. A draft version of the Hinckley and Bosworth Local Plan 2020-2039 was published for consultation in 2022. I address the weight I give to the plan in more detail in the planning balance.

## **Main Issues**

7. The main issues are the effect of the proposed development on:
  - The spatial strategy of the development plan, in relation to the location of new development
  - The landscape
  - Accessibility to services and facilities
  - The settings of the grade II\* listed Church of St Philip and St James, and of the Ratby Conservation Area.
8. It is also necessary to consider the benefits of the proposal, and the consequences of a lack of housing land supply. I do this as part of the planning balance.

## **Reasons**

### *Spatial strategy*

9. The spatial strategy as set out in the Core Strategy Development Plan Document 2009 (the Core Strategy) is to focus development in and around Hinckley, with a lesser amount of development planned for the rural area to ensure that smaller settlements remain vibrant, mixed communities. To that end, Policies 7 and 8 of the Core Strategy support housing development within the settlement boundary of Ratby, which is identified as a Key Rural Centre. Outside the settlement boundary, only limited forms of development are supported, as listed in Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document 2016 (the Development Management Plan).
10. The appeal site lies outside the settlement boundary of Ratby as defined on the Settlement Inset Plan and the proposed development does not fall within any of the categories of development supported by Policy DM4. The proposed development would therefore be at odds with the spatial strategy of the development plan and conflict with Policy DM4.
11. The housing target in the Core Strategy is derived from the former East Midlands Regional Plan, now withdrawn. That housing target has been superseded by a nationally derived housing target calculated using a different methodology, and the need to co-operate with neighbouring planning authorities to address unmet housing demand, which results in a higher housing target. It follows that the development plan no longer reflects current housing need and fails to support the Government's objective of significantly boosting the supply of homes. The policies relating to the provision of housing are therefore out-of-date.

12. I conclude that, in so far as the spatial strategy as set out in the development plan is relevant, residential development on the appeal site would run counter to it and would therefore conflict with Policy DM4 of the Allocations Plan. However, that policy conflict only attracts limited weight because the policies which quantify and distribute housing growth in the development plan are out-of-date.

### *Landscape*

13. In landscape terms the site forms part of an area<sup>1</sup> characterised by gently rolling landform rising to the north, clustered villages of varying sizes, predominantly arable farmland with areas of industry and recreational facilities near to the village fringes, limited tree cover, large to medium sized field patterns surrounded by hedgerows and linear woodland copses, and a good network of footpaths linking settlements. Electricity pylons and wind turbines are often prominent vertical features in the open landscape.
14. The site reflects these landscape characteristics by forming the larger part of what is currently an arable field surrounded by hedges, those to the north and south supplemented by hedgerow trees. It slopes down to the south and east, with its highest point being the proposed access point to Desford Lane. The village of Ratby sits on a hill to the east. To the south a shallow valley separates the site from the neighbouring village of Kirby Muxlowe. Land to the west is designated as part of the National Forest, although adjacent to the appeal site it is farmed land in arable and pastoral use rather than woodland.
15. Although the land surrounding these villages is predominantly agricultural in nature, commercial uses are interspersed within the landscape. A line of pylons runs up the valley. There was general agreement in the evidence presented on landscape that the site and surrounding area has a medium to medium-high sensitivity to change. Although not a 'valued' landscape in the sense used in paragraph 180b) of the Framework, I recognise it as having its own intrinsic character and beauty.
16. Residential development on the site would introduce domestic scale buildings together with roads, vehicles and lighting. The development as well as the activities associated with it would suburbanise the site and would inevitably harm its agricultural character and appearance and the contribution it makes to the landscape. Although residential buildings would not front Desford Lane, the development would still be readily seen from it and the public footpath that runs along the western boundary of the site, and in views across the valley from the south. Some landscape mitigation could be provided, with up to half of the site potentially being available. However, even after such planting had become established, the houses and associated activities would still be visible because of the proximity of the footpath and the sloping nature of the site.
17. The highway works to Desford Lane would also have a material impact on its character and appearance. Although well trafficked, at present the lane provides a largely rural approach to Ratby. In my view the built-up entry to the village does not become apparent until one gets near the new medical centre. The proposed highway works would suburbanise the lane by straightening and widening parts of it, introducing new hard surfacing and lighting, and reducing

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<sup>1</sup> Hinckley and Bosworth Borough Landscape Character Assessment 2017 – LCA D: Newbold and Desford Rolling Farmland

the amount of soft verge. The hedgerow along the site frontage would also have to be removed but is proposed to be replanted behind the access sight line.

18. The development would be separated from the existing built-up edge of Ratby by the playing fields of Ratby Sports Club to the north and small meadows either side of Little Rothley Brook to the east. I was presented with differing views as to how this separation would be perceived in landscape terms. Other than for the hedged and treed boundary to Desford Lane, the playing fields do not in my view contribute to the wider landscape because they do not reflect its characteristic features. They provide an open and green space adjacent to the built-up area but are formal in appearance with terraces to accommodate the playing pitches.
19. The meadows however provide a more obvious break between the site and the western edge of the village. In views from the west and southwest, development on the site would be seen against the backdrop of existing housing in Ratby, but from the south and southeast it would be apparent that the development was on a separate hillside to that occupied by the existing village and that there was a green wedge separating it from existing housing.
20. Balanced against that sense of separation from Ratby is the presence of commercial operations in the immediate vicinity of the appeal site, the most evident being that of the stoneworks and to a lesser extent a caravan storage use on the opposite side of Rothley Brook. Development on the site would be seen as occupying land between these commercial operations and Ratby, rather than intruding out into open countryside. Sufficient countryside would remain between Ratby and Kirby Muxlowe to maintain a separation between the villages.
21. Taking all of these factors together it is my view that the development would have a harmful impact on the landscape by introducing built development on agricultural land that is characteristic of the landscape and forms part of its intrinsic character and beauty. While the proposal would be perceived as spreading development beyond the hilltop setting of Ratby and separated to an extent from its existing built-up edge, that perception would be moderated by the presence of the nearby commercial operations such that the harm would be contained to the local area. Planting would help to mitigate that harm to an extent. However, given the visibility of the site there would remain moderate adverse harm to the landscape in the long term.
22. The Council's reason for refusal relating to landscape harm refers to Policies 6 and 7 of the Core Strategy. Neither of these policies are relevant to impact on the landscape as the former relates to a green wedge designation and the latter relates to development within key rural centres, neither of which the site falls within. Reference is also made to Policies DM1 and DM10 of the Development Management Plan. Policy DM1 relates to the presumption in favour of sustainable development (paragraph 11 of the Framework), which I address later. Policy DM10 is aimed primarily at detailed design, which is relevant for the reserved matters but not the outline stage.
23. That leaves Policy DM4 of the Development Management Plan. Its purpose is to safeguard the countryside and maintain separation between settlements. It does that by protecting the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development. The

appellants argue that the detailed criteria i) to v) are only relevant where development falls within the categories of development considered sustainable in the countryside as set out in criteria a) to e). Given the joining preposition 'and' between these lists of criteria in the policy, that interpretation must be right. However, that does not prevent the first sentence of the policy from being relevant to unsustainable forms of development in the countryside.

24. I conclude that the development would conflict with Policy DM4, not only because it is not included in any of the categories of development considered sustainable in the countryside, but also because it would cause moderate adverse harm to the value, beauty and character of the countryside, albeit that harm would be contained to the local area and would not result in the merging of villages. It would also conflict with paragraph 180b) of the Framework which recognises the intrinsic character and beauty of the countryside, with the implied degree of protection that recognition affords.

#### *Accessibility to services and facilities*

25. Ratby is identified in the Core Strategy as a Key Rural Centre because it contains a primary school, local shop, post office, medical surgery, community and leisure facilities, employment opportunities and a 6 day a week bus service. These services and facilities are recognised in the Core Strategy as making it a place where residents can fulfil their daily needs without having to travel long distances into urban areas. A need identified in Policy 8 of the Core Strategy to improve medical facilities in Ratby has recently been secured through completion of the new medical centre on Desford Lane.
26. At present the site is not well connected to the services and facilities in Ratby. Desford Lane has no footways and is unlit for most of its length, and there is no other direct access across Little Rothley Brook to the village. The proposed highway works would therefore be critical in securing accessibility to the village as well as wider afield by means other than the private motor car.
27. With the proposed highway works, walking distances to the services and facilities in the village may be longer than is desirable but nevertheless most would be within what are acceptable or preferable maximum distances for pedestrians without a mobility impairment<sup>2</sup>. The proposed bus stops would be within a desirable walking distance. Average walking distances to facilities in the centre of the village would be comparable to those from dwellings in its northern and southern parts, including recent residential development off Markfield Road.
28. Because the proposal is made in outline with layout reserved for later consideration, the measurement of distances has been taken from a central point in the site, meaning that some occupants would have to walk further and some less than that calculated<sup>3</sup>. Given the somewhat subjective nature of what may be considered desirable, acceptable or the maximum preferable walking distances, I consider that does not invalidate the findings detailed above.
29. The quality of the walking route is also important in encouraging future occupants to walk or cycle rather than take the car for short journeys. In that regard the separate shared footway/cycleway with street lighting and the new pedestrian crossing would provide a safe route into the village for both

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<sup>2</sup> Institution of Highways & Transportation: guidelines for providing for journeys on foot 2000, table 3.2

<sup>3</sup> Accessibility statement of common ground, table 2.1

pedestrians and cyclists. The provision of new bus stops with a central refuge to aid crossing the lane would also provide convenient and safe facilities for bus passengers.

30. The proposed works would have some shortcomings, in that there would be a pinch point where the shared path crosses Little Rothley Brook, and neither the path nor the bus stops would be under passive surveillance<sup>4</sup>. The single point of access to the site and the single shared path into the village are also less than ideal, in that there would be no choice of routes unlike other parts of the village where there is greater permeability. However, none of these would seriously undermine the quality of the proposed highway facilities or significantly reduce their attractiveness to future users in accessing services and facilities in the village, or wider afield, including employment opportunities.
31. I conclude that, notwithstanding the shortcomings, accessibility to services and facilities sufficient to meet daily needs would be available to occupants of the proposed development by a range of travel modes other than the private motor car. Accessibility further afield to higher order services, facilities and employment opportunities would also be available by bus or bicycle. The proposal would therefore accord with Policy DM17 of the Development Management Plan, which seeks to minimise the need to travel and promotes sustainable forms of transport in new developments.

### *Heritage*

32. There are two heritage assets which the development has the potential to affect. These are the grade II\* Church of St Philip and St James<sup>5</sup>, and the Ratby Conservation Area. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to preserving the architectural and historic interest of the church, and to preserve or enhance the character or appearance of the conservation area, respectively.
33. The significance of the church lies in its historic fabric, the earliest parts of which date from the 13<sup>th</sup> century, and also its setting in a prominent position on top of a hill in the centre of the village. Its immediate setting is defined by the churchyard, with its wider setting being established by the village (in particular the more historic parts of it) and beyond that to the surrounding countryside.
34. The significance of the conservation area lies in the historic buildings and road layout which make up the earliest part of the village, grouped around the church, along Main Street and the upper part of Station Road. The buildings reflect the change from a predominantly agrarian village to one that accommodated a mix of agricultural and early manufacturing uses within the historic core. The setting around the conservation area is now largely occupied by more modern development although playing fields abut it to the south and west, and views of surrounding countryside can be gained from the higher ground within it.
35. Neither of these heritage assets would be directly impacted by the proposed development, which would be separated from them by some distance. Views of the appeal site can be obtained from the church, and vice versa, although those views are filtered through the hedge and trees along the northern

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<sup>4</sup> Leicestershire Highway Design Guide 2022, part 3

<sup>5</sup> List entry number 1074093

boundary of the site. The illustrative development framework plan shows that it may be possible to retain some views of the church from the appeal site through site layout design, although that would be for the reserved matter stage and is not determinative of my conclusions on heritage matters.

36. Little of the appeal site can be seen from the conservation area, other than from the area immediately around the church. Desford Lane does form an approach to the conservation area, although only its easternmost end is identified as a view to be protected<sup>6</sup>, which is beyond the part of the lane that would be altered by the proposed highway works.
37. The loss of part of the countryside that can be seen from the church and that part of the conservation area that immediately surrounds it would have a minor adverse effect on their settings, in that it would lessen the historic relationship between the church and village and its agricultural hinterland. However, historically the church has always been surrounded by buildings rather than being reliant on an isolated, countryside setting. The same applies to the conservation area where its significance and special interest lies not only in its agrarian links but also to buildings associated with early forms of manufacture, none of which were reliant on agriculture.
38. Consequently, the limited impact to the wider settings of the church and conservation area identified above would amount to less than substantial harm to their significance. That impact would be towards the lower end of the range of such harm.
39. In such circumstances, paragraph 208 of the Framework says that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. It is common ground between the witnesses for both of the main parties that the public benefits arising from the provision of additional housing, including a proportion of affordable housing, would outweigh the less than substantial harm to the significance of both the church and the conservation area.
40. Irrespective of the level of harm caused, paragraph 205 of the Framework requires that great weight be afforded to a heritage asset's conservation. Having taken into account that great weight, and the statutory protection afforded to designated heritage assets, I am of the view that the public benefits of the development would easily outweigh the very limited harm caused to the significance of both the church and conservation area. Consequently, I conclude that the development would not conflict with Policies DM11 and DM12 of the Development Management Plan, which seek to protect the historic environment taking account of any benefits that might flow from development proposals.

## **Other Matters**

41. The development would give rise to the loss of a small amount of best and most versatile agricultural land. The loss of agricultural land does not form a reason for refusal on the Council's decision notice although it is a matter raised in evidence. I was informed that almost all agricultural land in the borough falls within this category and therefore any housing development is likely to result in

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<sup>6</sup> Ratby Conservation Area Appraisal, 2014

such a loss. Given that to be the case, I consider that the loss of this relatively small parcel of land for agriculture would not cause any material difference to food production because such a loss is inevitable if the borough is to meet its housing requirements.

42. I heard evidence from interested parties that Ratby has expanded rapidly in recent decades and that has put strain on local facilities, in particular the primary school and increased traffic on the roads, as well as fears about the ability of the village to accommodate the rate of change in social terms.
43. While I understand the concerns expressed on these issues, it is a matter for service providers to respond to new development by providing improvements or additional capacity where necessary, rather than existing capacity being seen as a limiting factor on development, unless such improvements or additional capacity are not possible. In this case, no objection to the scheme has been raised by service providers, including the County Council in its roles as Highway Authority and Education Authority. A range of legal obligations and conditions agreed to by the appellants would also secure contributions towards the provision of education and highway improvements, as well as other services such as the library and maintenance of open space.
44. Social change is a more subjective matter. I appreciate that more housing will make the village a busier place with potentially a greater variety of people, and that some residents may regret the change from what was a smaller and perhaps more intimate scale of village in the past. However, more residents do also bring advantages, such as more participants in village sports clubs, and using local shops and businesses ensuring that they remain and thrive. Development of new housing, whether at Ratby or elsewhere in the borough, is necessary to meet demand and therefore change to the existing population is inevitable. I do not consider that change to be intrinsically harmful.
45. I was told that there have recently been instances of flooding in the local area. While that may be the case, so far as the proposed development is concerned there is a requirement that it incorporate a sustainable drainage system to avoid increasing surface water run-off from the site. It would not therefore worsen the current problems.
46. The issue of noise disturbance from the stoneworks has been raised. I do not consider that is of sufficient concern to prevent residential development taking place on the site, but I have imposed a condition requiring the potential for such noise disturbance to be assessed in more detail and for suitable mitigation to be incorporated in the layout and design of houses on the site if necessary.
47. There would be some temporary disruption during the construction period. However, that is common to almost all development and does not amount to a reason for dismissing the appeal. Conditions are imposed that would help minimise any disruption that might occur.

### **Planning Balance**

48. I have found that the proposed development would conflict with Policy DM4 of the Development Management Plan because the site lies outside the settlement boundary of Ratby and does not fall within any of the categories of development considered appropriate in the countryside. However, that conflict

- only carries limited weight because the spatial strategy of the development plan is out-of-date.
49. I have also found that the proposed development would conflict with Policy DM4 and paragraph 180b) of the Framework in that it would cause harm to the landscape. I give that harm moderate weight.
50. For accessibility by means other than the private motor car, I have concluded that while there are some shortcomings to what is proposed, when taken in the round accessibility to services and facilities in Ratby would be acceptable. I have also concluded that while there would be less than substantial harm to heritage assets, that harm would be very limited and is outweighed by the public benefit of providing housing to meet demand. Both of these issues are of neutral weight in my decision.
51. Balanced against that conflict with Policy DM4 and the Framework, the proposal would result in a number of benefits. The principal benefits, already mentioned in connection with heritage assets, are the provision of new market and affordable housing. Those homes would help meet demand for housing, which both parties recognise is not being adequately met in the borough at the current time. I give both those benefits significant weight.
52. There would be economic benefits both in the short term during the construction period and afterwards through the spending power of future occupants to the local economy. There would also be a net gain in biodiversity. I give these benefits limited weight.
53. Open space and play equipment would be provided on site, as would contributions towards a range of off-site services and facilities such as education and the library service. While these facilities or improvements to services would be available to the general public, they are primarily intended to meet demand and serve the needs of future occupants. I therefore give them only limited beneficial weight.
54. The proposed development would have its own sustainable drainage system that would attenuate surface water run-off from the site such that it would be no greater than the existing greenfield run-off rate. I am satisfied that such a system would not worsen localised flooding that interested parties told me about at the inquiry. However, without having further details of the storage capacity of the system I am unable to say whether it would improve on the current situation. I therefore give this matter neutral weight.
55. In terms of housing land supply, it is necessary to consider the recent changes in national policy contained in the revised Framework. The Council is required to identify and update annually a supply of deliverable sites by virtue of paragraph 77, because it does not meet the criteria in paragraph 76. That requirement is for 5 years' worth of housing land, unless the provisions of paragraph 226 apply, in which case it is 4 year's worth. Paragraph 226 applies where an authority has an emerging local plan which has reached the Regulation 18 or 19 stage<sup>7</sup> and includes both a policies map and proposed housing allocations. This provision is time limited to 2 years (ending December 2025).

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<sup>7</sup> Town and Country Planning (Local Planning) (England) Regulations 2012

56. In this case, the Council does have an emerging plan that has reached the Regulation 19 stage, and which does have a policies map showing housing allocations, albeit that map is incomplete because it does not show the geographical expression of other policies in the plan. However, the plan has not progressed to examination, and the Council has recently published a revised local development scheme<sup>8</sup> which indicates that it intends to consider an alternative development strategy, extend the plan period to 2041 and carry out new Regulation 18 and 19 consultations before submission for examination by June 2025, with adoption expected in early 2026.
57. Although the present Regulation 19 plan has not been formally withdrawn, it is apparent that there is no intention to progress it in its current form. The purpose of the revised requirement in the Framework is to recognise those authorities which are progressing with plan making. Since the current Regulation 19 plan has stalled, and a revised version is not envisaged to be adopted for at least two years, I consider that the provisions of paragraph 226 do not apply in this case. That position is accepted by both main parties, including the Council, which is not seeking to rely on the provisions of paragraph 226.
58. In terms of housing land supply, the most recent published figure shows 4.89 years' supply available<sup>9</sup>. This includes a 5% buffer, which is no longer needed. However, I was offered no updated housing land supply calculation, and the position of the Council remains that it is unable to demonstrate a 5-year housing land supply. In such circumstances, for proposals involving the provision of housing, footnote 8 of the Framework deems the policies most important for determining the proposal to be out-of-date.
59. Where those policies are out-of-date, paragraph 11d) of the Framework says that planning permission should be granted unless specific policies in the Framework provide a clear reason for refusal, or any adverse impacts of the development would significantly and demonstrably outweigh the benefits.
60. In this case there are no specific policies in the Framework that provide a clear reason for refusal. Harm to designated heritage assets is capable of being such a specific policy, but here it is agreed that the limited harm caused to the church and conservation area is outweighed by public benefits and therefore does not amount to a clear reason for refusal.
61. I have identified some adverse impacts arising from the proposal, both in terms of the conflict with the spatial strategy of the plan, and its impact on the landscape. However, those only carry limited or moderate weight. When compared to the range of benefits that would flow from the proposal, I conclude that the harm does not significantly and demonstrably outweigh the benefits. Accordingly, it follows that the Framework supports planning permission being granted. That is an important material consideration that carries significant weight.

### **Legal undertaking**

62. The proposal is accompanied by a legal undertaking that secures a range of planning obligations. These include the provision of 40% affordable housing

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<sup>8</sup> Hinckley & Bosworth Borough Council Local Development Scheme 2020-2025, February 2024

<sup>9</sup> Hinckley & Bosworth Borough Council Residential Land Availability Monitoring Statement 1 April 2021 – 31 March 2022

with agreed tenures, travel packs including bus passes, and financial contributions towards a traffic regulation order, education, health care, a civic amenity site, the library, improvement of a highway junction as part of the Coalville Transport Strategy, maintenance of on-site and off-site open space, and monitoring.

63. Having regard to the compliance statement submitted by the Council and the discussion that took place at the inquiry, I am satisfied that these obligations meet the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 in that they are necessary, directly related to the development and fairly and reasonably related in scale and kind. No objection to them was raised by the appellants. I have placed weight on them in meeting policy requirements in the development plan and the additional demands the development would place on infrastructure and public services. The proposed highway improvements, which are critical in securing adequate accessibility to the site, are secured through Grampian conditions, which I consider below.

### **Conditions**

64. I have considered the draft conditions against the tests in paragraph 56 of the Framework. I have imposed those which I consider meet the tests, subject to rewording and simplification in the interests of clarity, consistency and enforceability. They have also been reordered in accordance with the advice in the Planning Practice Guidance. The appellants confirmed their agreement to the inclusion of pre-commencement conditions at the inquiry pursuant to section 100ZA of the Town and Country Planning Act 1990.
65. Condition 1 is necessary to require submission of the reserved matters, and conditions 2 and 3 set time limits for their submission and the start of development. I have separated these for clarity. Condition 4 listing the approved drawings is needed for certainty.
66. Condition 5 is necessary to ensure any matters of archaeological interest are found and recorded.
67. Conditions 6, 14 and 15 are necessary to find and remediate any contamination that might exist on the site.
68. Condition 7 is required to control and mitigate any adverse effects during the construction period, including construction traffic. I have combined suggested conditions into one and simplified the requirements in the interests of clarity.
69. Conditions 8, 9 and 16 are necessary to ensure appropriate surface water drainage both during construction and long term. I have combined suggested conditions to include the surface water drainage system being designed to also avoid water draining onto the public highway.
70. Condition 10 is necessary to enable further consideration to be given to the position and design of the proposed pedestrian crossing to the north of the site in the vicinity of the health centre.
71. Conditions 11, 12, 13 and 24 are necessary to secure biodiversity net gain and ensure that the impact on wildlife is minimised.
72. Conditions 17, 18, 19 and 20 are necessary to ensure that the proposed on and off-site highway works are implemented and thereafter maintained. Condition

- 21 requires a travel plan to be approved to encourage future occupants to use means of transport other than the motor car.
73. Condition 22 is necessary to support good quality, up-to-date communications.
74. Condition 23 is necessary to minimise noise disturbance to future occupants and condition 25 is necessary to ensure healthy lifestyle features are incorporated into the detailed layout and design of the development.
75. Condition 26 is necessary to control the times of construction activities in the interests of neighbouring occupants.
76. I have not imposed a condition referring to the development framework plan, as that is submitted for illustrative purposes only. I have not imposed conditions relating to retention of hedges, replacement of damaged planting, ground levels and bin storage as these are more appropriately considered as part of the reserved matters details. I have also not imposed a condition restricting permitted development rights for domestic gates and other means of enclosure as there is no clear justification to do so. To impose such a condition would conflict with paragraph 54 of the Framework.

### **Conclusion**

77. I conclude that the development would conflict with Policy DM4 of the Development Management Plan, and would therefore conflict with the development plan when taken as a whole. However, there are important material considerations, in particular the 'tilted' balance arising from the Framework that indicates that planning permission should be granted, and the benefits of providing housing in an area where that need is not currently being met. These material considerations outweigh the conflict with the development plan.
78. Consequently, I conclude that the appeal should be allowed.

*Guy Davies*

INSPECTOR

## Appearances

### For the appellants:

Martin Carter	Counsel
Silke Gruner BHons LA CMLI	Director (Landscape), Icen Projects
Rosey Meara MA (Hons) PGCert MCIfA	Associate Consultant, CSA Environmental
Ben Jackson BEng (Hons) MSc MCIHT	Director, Ashley Helme Associates Ltd
Peter Dutton BA (Hons) MCD MRTPI	Planning Manager, Gladman Developments Ltd

### For the Council:

Hugh Richards	Counsel
Simon Neesam BA (Hons) DipLA CMLI	Director, The Landscape Partnership Ltd
Andrew Gray MSc MRTPI MSc MIED	Associate Director, Aitchison Raffety
Tim Hartley BA (Hons) MRTPI	Team Leader Development Management, Hinckley & Bosworth Borough Council

### Interested parties:

Cllr Ozzy O'Shea JP	Grobby & Ratby Division and Ratby, Bagworth & Thornton Ward
Cllr Chris Boothby	Ratby, Bagworth & Thornton Ward
Dr Andrew Simmonds	Local resident
Stephen Boud	Local resident
Graham Stanley	Local resident

## Documents

Documents relating to the inquiry can be found at: [About the inquiry | Public inquiry: land off Desford Lane, Ratby | Hinckley & Bosworth Borough Council \(hinckley-bosworth.gov.uk\)](https://hinckley-bosworth.gov.uk/about-the-inquiry/)

Documents received during or after the inquiry are as follows:

1. Copy of draft legal undertaking
2. Draft conditions
3. High Court judgement: Monkhill Ltd v SSHCLG [2019] EWHC 1993 (Admin)
4. Appeal Court judgement: Monkhill Ltd v SSHCLG [2021] EWCA Civ 74
5. Plan of cycling route to Leicester
6. High Court judgement: Bramley Solar Farm Residents' Group v SSLUHC and others [2023] EWHC 2842 (Admin)
7. Opening statement on behalf of the appellants
8. List of appearances for the appellants
9. Opening statement on behalf of the Council
10. Speaking notes for Dr Andrew Simmonds
11. Revised local development scheme 2020-2025 dated February 2024
12. Minute 231 of Council meeting 13 December 2022 relating to revision of local development scheme 2020 to 2025 dated October 2022
13. CIL compliance statement by Council
14. Leader of the Council's position statement at Council meeting 6 September 2022 including reference to local plan
15. Regulation 19 draft plan
16. Policies map published with Regulation 19 draft plan
17. Inset map for Ratby published with Regulation 19 draft plan
18. Closing submissions on behalf of the Council
19. Closing submissions on behalf of the appellants
20. Speaking notes for Graham Stanley
21. Copy of completed legal undertaking.

**Schedule of 26 conditions:**

1. No development shall commence until details of layout, scale, appearance, landscaping and internal access (hereafter called the reserved matters) have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved reserved matters.
2. Application for approval of the reserved matters shall be made within 3 years of the date of this permission.
3. The development hereby permitted shall begin not later than 3 years from the date of this permission or not later than 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is later.
4. Other than as may be approved in condition 10, the development hereby permitted shall be carried out in accordance with the following plans:  
Site location plan – CAS/5249/108 Rev B  
Proposed access strategy – 1726/16 Rev E  
Proposed access arrangements 1726/15 Rev H  
Proposed toucan crossing – 1726/19 Rev C
5. No development shall commence until a scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the nomination of a competent person or organisation to undertake the approved scheme, and a programme of site investigation, recording and publication of post-investigation analysis. The scheme of archaeological investigation shall be carried out in accordance with the approved programme.
6. No development shall commence until a scheme for the investigation and mitigation of any contamination at the site has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation and mitigation shall be implemented in accordance with the approved details prior to occupation of the development.
7. Prior to the commencement of development a construction environmental management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall detail how, during site preparation and construction, the impact on neighbouring properties and the environment shall be minimised or mitigated from dust, odour, noise, smoke, light or other sources of pollution. The plan shall also detail how construction traffic will be managed including routing of construction traffic, wheel cleaning and parking. The plan shall detail how such controls will be monitored and shall include a procedure for the investigation of and response to complaints. The construction environmental management plan shall be implemented in accordance with the approved details.
8. Prior to the commencement of development details of a surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The details shall include how surface water will be prevented from draining onto the public highway. The surface water

drainage system shall be implemented in accordance with the approved details prior to occupation of the development.

9. Prior to the commencement of development a system for the management of surface water drainage during site preparation and construction shall be submitted to and approved in writing by the Local Planning Authority. The system for the management of surface water drainage shall be implemented in accordance with the approved details, and maintained in working order throughout site preparation and construction.
10. Notwithstanding plan 1726/19 Rev C in condition 4 (approved plans), prior to commencement of development a scheme for a pedestrian crossing north of the site on Desford Lane in the vicinity of the health centre shall be submitted to and approved in writing by the Local Planning Authority. The approved pedestrian crossing shall be installed prior to occupation of the development.
11. Prior to the commencement of development a biodiversity net gain plan ensuring a net gain in biodiversity of at least 10% shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of baseline habitat data, habitat creation and/or enhancement, a timetable for implementation, a habitat management and monitoring plan with measures for remediation if required, and if necessary details of biodiversity off-setting and its long-term management and monitoring. The plan shall be implemented in accordance with the approved details.
12. Prior to occupation of the development, a landscape and ecological management plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens shall be submitted to and approved in writing by the Local Planning Authority. The landscape and ecological management plan shall be carried out in accordance with the approved details.
13. Prior to occupation of the development, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and the design and location of the lighting equipment demonstrating how external lighting will minimise harm to protected species and their habitats. The external lighting shall be installed and operated in accordance with the approved details.
14. If during development contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation and mitigation of contamination at the site has been submitted to and approved in writing by the Local Planning Authority detailing how the contamination is to be remediated. The remediation works approved shall be carried out prior to the occupation of the development.
15. Within 3 months of the completion of any mitigation or remediation works approved pursuant to conditions 6 and 14, a verification report shall be submitted and approved in writing by the Local Planning Authority. The verification report shall be written by a suitably qualified person or

organisation and shall include details of the mitigation or remediation works, post-remedial sampling, disposal of waste and quality assurance certificate(s) to demonstrate that the mitigation or remediation works have been carried out in accordance with the scheme of investigation and mitigation approved pursuant to conditions 6 and 14.

16. Prior to occupation of the development a plan for the long-term maintenance of the surface water drainage system approved pursuant to condition 8 shall be submitted to and approved in writing by the Local Planning Authority. The maintenance plan shall include responsibilities and schedules for routine maintenance, monitoring and remedial action if required of the drainage system, and procedures to be implemented in the event of pollution of surface water on the site. The surface water drainage system shall be maintained in accordance with the approved maintenance plan.
17. Prior to occupation of the development the access arrangements shown on approved plan 1726/15 Rev H shall be implemented in full.
18. Prior to occupation of the development the offsite highway works detailed on approved plan 1726/16 Rev E including the shared use footway/cycleway along Desford Lane, realignment of part of Desford Lane, bus laybys, pedestrian refuge and gateway feature but excluding the pedestrian crossing north of the site on Desford Lane in the vicinity of the health centre, shall be implemented in full.
19. Prior to occupation of the development vehicular visibility splays of 2.4m x 120m to the right of the site access and 2.4m x 118m to the left of the site access shall be provided. The visibility splays shall thereafter be maintained free from obstruction above a height of 0.6m measured from the level of the adjacent footway, verge or carriageway.
20. Prior to occupation of the development vehicular visibility splays to existing accesses 1, 2 and 3 as detailed on Jackson drawing 2112 Rev D shall be provided. The visibility splays shall thereafter be maintained free from obstruction above a height of 0.6m measured from the level of the adjacent footway, verge or carriageway.
21. Prior to occupation of the development a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall be implemented in accordance with the approved details.
22. Prior to occupation of the development a full fibre broadband connection shall be made available and ready for use for each dwelling.
23. Layout and appearance reserved matters shall include a noise investigation and mitigation strategy detailing how occupants of dwellings on the site will be protected from adverse noise effects arising from the adjacent Stonecroft works. The development shall be implemented in accordance with the approved noise investigation and mitigation strategy prior to occupation of the development.
24. Layout and landscaping reserved matters shall include details of how the recommendations of the SCA Ecological Impact Assessment CSA/5249/05,

dated September 2021, have been incorporated. The details so incorporated shall be implemented in accordance with approved layout and landscaping plans.

25. Any reserved matters application shall include a Building for a Healthy Life Assessment which shall demonstrate how the development accords with best practice requirements set out in the Building for a Healthy Life document.
26. Site preparation and construction shall be limited to the following hours:  
Monday – Friday: 07:30 – 18:30  
Saturday: 08:00 – 13:00  
There shall be no site preparation or construction on Sundays, bank or public holidays.

**\*\*\* End of conditions\*\*\***





## Appeal Decision

Inquiry Held on 29 November 2022

Site visit made on 1 December 2022

**by S R G Baird BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 4<sup>th</sup> January 2023**

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**Appeal Ref: APP/K2420/W/22/3301735**

**Land off Sketchley Lane, Burbage, Hinckley**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Barwood Development Securities Limited against the decision of Hinckley and Bosworth Borough Council.
  - The application Ref 21/01131/OUT, dated 5 September 2021, was refused by notice dated 16 June 2022.
  - The development proposed is the demolition of existing poultry and cattle buildings and a residential development of up to 150 dwellings with vehicular access from Sketchley Lane (outline – vehicular access only).
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### Decision

1. The appeal is allowed, and outline planning permission is granted for the demolition of existing poultry and cattle buildings and a residential development of up to 150 dwellings with vehicular access from Sketchley Lane (outline – vehicular access only) on land off Sketchley Lane, Burbage, Hinckley in accordance with the terms of the application, Ref 21/01131/OUT, dated 5 September 2021 and the plans submitted with it subject to the conditions contained in the attached Schedule of Conditions.

### Preliminary Matters

2. The application was submitted in outline with all matters other than means of vehicular access reserved.
3. The second reason for refusal (RfR) has 2 parts. The first part refers to an adverse effect on highway safety. The second part refers to the impact of traffic calming measures on the character of Sketchley Lane. The Highways Statement of Common Ground (SoCG) confirms that with traffic calming, the proposal would not have a severe impact on highway safety. The local planning authority (lpa) did not pursue the first part of RfR 2.
4. Figure 21 of the Burbage Neighbourhood Plan (BNP) May 2021 shows most of the proposed residential area washed over as Local Wildlife Sites and subject to BNP Policy 8. The lpa confirmed that these allocations were included in error and that the site is not the subject of any local wildlife designations.
5. The inquiry was adjourned to allow for the S106 Unilateral Undertaking (UU) to be completed and closed in writing on 12 December 2022. The UU provides for affordable housing (AH), the appointment of a travel plan coordinator, the submission of a Biodiversity and Landscape Management Plan (BLMP) and financial contributions towards highway improvements, travel

packs, bus passes, bus stop improvements, civic amenity facilities, health care facilities, library services, off-site open space, on-site open space maintenance, early and special needs education facilities and monitoring.

6. The obligations have been reviewed in light of guidance contained in the National Planning Policy Framework (Framework) and Planning Practice Guidance (PPG). PPG advises that where a matter could equally be dealt with by way of a condition or a planning obligation, the decision maker should use a condition. All, bar the submission of a BLMP, which is also the subject of a suggested condition, are reasonable, necessary, and consistent with R21 of the CIL Regulations<sup>1</sup>. Accordingly, in coming to the decision, the relevant obligations have been taken into account.
7. I have had regard to appeal decisions referred to me, particularly APP/K2420/W/20/3260227. This appeal, dismissed in May 2021, related to the current appeal site and adjoining land and was for the extension of the adjoining Business Park and the erection of 140 dwellings with access from Sketchley Lane.

### **Main Issue**

8. The effect on the character and appearance of the area.

### **Reasons**

9. The Inspector in the May 2021 appeal decision started his consideration with a succinct description of the site, its nature, and sensitivity to development. Rather than attempting to reinvent the wheel, I have repeated much of his comment, albeit tailored to reflect the materially different nature and scale of the current proposal.
10. The Hinckley and Bosworth Landscape Character Assessment 2017 locates the site within Landscape Character Area (LCA) F: Burbage Common Rolling Farmland where the site comprises, several fields used for grazing cattle and horses. Most of LCA F lies to the east of Hinckley and to the south-east of Burbage. The appeal site lies within a pocket of LCA F to the south of Burbage and north of the A5 trunk road. The relevant characteristics of LCA F as they relate to the site include a medium to large scale field pattern with smaller scale pasture fields around the settlement, urban fringe influences, along with major transport corridors. A key characteristic of the adjoining UCA<sup>2</sup> 1: Burbage is as a ridgetop settlement where the village character is enhanced by the proximity to countryside to the south-east.
11. In describing the appeal site as having "*...some of the attributes of a semi-rural area...with significant parts... subject to substantial urban influences and is a transitional zone between existing industrial premises and residential uses*", my colleague chose his words very carefully. Here, the adjoining uses, some of which are at a higher level, comprise an extensive Business Park with tall utilitarian buildings, a sprawling hotel complex, substantial housing areas to the north, east and south and the heavily trafficked A5. Together these elements exert a very significant influence on the character of the site resulting in the site displaying a classic urban fringe character. That said, the relative openness and size of the site does form a visual break from built

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<sup>1</sup> The Community Infrastructure Levy Regulations 2010.

<sup>2</sup> Urban Character Area.

development, albeit highly localised, and makes a limited contribution to the setting of Burbage.

12. In coming to this conclusion, I have regard to the suggestion that in some glimpsed views, the commercial buildings would be read as agricultural sheds, thus limiting the influence they have on the character of the site. Whilst an interesting thought, it has, in my view, little merit. The public vantage points where the buildings might be seen from, do not form part of a long distance footpath that would be traversed by people unfamiliar with the area. Even if walkers are unfamiliar with the area, the scale of the buildings are such that it would be hard to read them as agricultural buildings.
13. The site forms part of Sensitivity Area 07: Sketchley in the 2017 Landscape Sensitivity Assessment (LSA), where it is judged to have a low sensitivity to residential development. In terms of perceptual qualities, the LSA notes that the fields, particularly around the Sketchley Grange Hotel, retain some rurality, where well-treed field boundaries combine with mature specimens within the field to create a distinctive local landscape from the rest of the area. Whilst little appears to have changed in the area to alter the conclusions of the LSA, it is prescient to note that the later BNP does not identify land to the west of Burbage as an area of landscape sensitivity or list important views. The BNP reserves those identifications for land on the eastern edge of Burbage (BNP Figure 27).
14. The visual break referred to in the 2021 appeal decision and the medium distance views to beyond the A5 are largely appreciated from the southern third of the bridleway on the eastern boundary of the site. It is in the localised views from The Spinney, that the ridge and furrow earthworks contribute to the landscape character of the site. From the remainder of the bridleway to the north, views out are, even in winter, limited by the dense planting on the western edge of the bridleway to brief glimpses of the agricultural buildings and small parts of the field in the foreground.
15. Additional views to the west and a closer appreciation of the ridge and furrow earthworks could be obtained from the second bridleway that crosses the site from the north-eastern corner of The Spinney. However, there is no access to it, a situation that appears to have existed for some considerable time. That part of the bridleway is unsigned, the southern entrance is blocked by a mature hedge/fencing and a significant change in levels and the northern entrance off Sketchley Lane is constrained by housing. It appears that no one, including the highway authority (HA), the Borough and Parish Councils or interest group, has sought to reopen this path.
16. In the May 2021 decision, a key building block of my colleague's conclusion was, that the loss of the sense of separation and openness between industrial and residential uses would be a fundamental and adverse alteration to the landscape resource. With the retention of the fields to the north of The Spinney, to the south-west of the hotel, to the south-east of the industrial estate and to the north of the A5 as public open space and the large field immediately to the west of The Spinney in open use, separation and openness would be retained. These features, as would the longer views over the A5, would be retained and apparent from the bridleway on the eastern boundary and the existing open space north of The Spinney. Moreover, the proposed

area of open space coincides with the identification of the area within the BNP as a Wildlife and Green Corridor (Figure 25).

17. The housing to the south and east of the hotel would result in a permanent change in the landscape character of that part of the site. However, with careful treatment of the layout particularly the disposition of building heights and the choice of boundary and internal landscaping, both of which would be the subject of reserved matters applications, the effect on landscape character would be moderate adverse at Year 1 reducing to minor as the landscape planting matured. Overall, the harm to landscape character would be minimal and not significant.
18. In concluding on landscape character effects, I have had in mind the submission that the use of most of the site for public open space would result in the "municipalisation" of the landscape and the effect this would have on the semi-rural attributes of the site. This conjures up a vision based on the park keepers' approach to landscaping, where planting is formal, waling on the grass is forbidden and mown within an inch of its life. Thankfully, landscape design has moved on and as landscaping is a reserved matter, it is not beyond the wit of the developer and the lpa to create/approve a scheme for this area that retained the semi-rural attributes of the site.
19. The visual impacts of the development would be experienced from the eastern bridleway, the open space to the north of The Spinney, the A5 and the access onto Sketchley Lane. The distinguishing feature of all these views are that they are highly localised and contained. Along the northern two-thirds of the eastern bridleway, there are intermittent and glimpsed views into the site. As such the development would have limited visual impact. From the southern third of the bridleway, the open space to the north of The Spinney and from various points on the footpath along the northern side of the A5, the development would be noticeable albeit against the backdrop of the hotel. Whilst the ground rises from the northern edge of the proposed open space, with careful attention to the detail of the layout, the disposition of building heights and landscaping, overall, the development would not appear unacceptably intrusive.
20. The access onto Sketchley Lane would occupy an area between Sketchley Lodge Farmhouse and substantial houses on the northern side of the lane between the junctions of Sketchley Old Village and The Stables, a cul-de-sac of several large dwellings. Here, houses are prominent in the street scene giving the lane a distinct urban character. The access would result in the loss of a wooden boundary fence where vegetation has been extensively cut back at the direction of the HA and several trees of limited amenity value. Whilst the development would be noticeable it would be consistent with the existing urban character of this part of the lane. With appropriate landscaping and layout, the development would not be unacceptably obtrusive.
21. The starting point for the lpa's concerns about the impact of the traffic calming measures on Sketchley Lane is that it is a "rural lane", and the works would have an "urbanising impact". Again, I believe my colleague in the 2021 chose his words carefully when he said, "*...Sketchley Lane has the feel of a semi-rural lane...*" and it is not just a matter of semantics to highlight the material difference between something being rural or semi-rural.

22. Moving east from the site, Sketchley Lane has footpaths, street lighting and residential development on both sides, albeit views of the housing on the southern side is heavily filtered by roadside planting. I had the opportunity to travel along Sketchley Lane regularly and I formed the clear opinion that part of the lane to the east of the site has a distinct suburban character. The traffic calming measures involving selective road widening and road narrowing features along with appropriate signage. The works are modest and would have a limited impact on roadside vegetation and trees. Indeed, as highlighted above, the HA has required roadside planting to be cut back where the site abuts the highway and it appeared to me that along the southern side of Sketchley Lane the verge and associated vegetation has been cut back at various times. In this context, the traffic calming measures and the additional traffic generated by the scheme would not have a material adverse effect on the character or appearance of Sketchley Lane.

#### Other Matters

##### Highway Safety

23. I have no reason to disagree with the conclusion of the HA or the agreed position between the parties that traffic generated by the proposal would not have a severe effect on the highway network.

##### Agricultural Land

24. The site contains Grade 2 and 3 agricultural land classified as being amongst the Best and Most Versatile (B&MV). Whilst the proposal would result in the permanent loss of some B&MV land, albeit on a materially smaller scale than that previously proposed, I have no reason to disagree with my colleague or the lpa that its loss would represent an adverse effect of minor significance.

##### Heritage

25. The BNP identifies the ridge and furrow earthworks as non-designated heritage assets. However, as a feature, they are not unique within the plan area. The quality of the earthworks varies across the site and the housing development would result in the loss of an area of distinct ridge and furrows. That said, I have no reason to disagree with my colleague's conclusion that, the remnant ridge and furrow has lost much of its original context and the lpa's conclusion that it is appreciated more as a landscape feature than for its heritage significance. It is agreed that heritage considerations could be addressed by imposing a recording condition.

##### Benefits

26. It is acknowledged that the proposal would bring several social and economic and benefits. The lpa accepts it cannot demonstrate a 5-year supply of deliverable housing sites and, as far as I am aware there are no constraints that would prevent the early implementation of this proposal. Indeed, the appellant would accept a significant reduction in the time limits attached to the submission of reserved matters. The provision of up to 120 (80%) market homes would be consistent with the objective of boosting the supply homes. Similarly, whilst the scale of AH proposed is policy compliant, the early provision of up to 30 (20%) would address the acknowledged acute need for affordable housing in the district. Economic benefits include, amongst other things, job creation during the construction stage and

increased local expenditure from new residents. These matters attract significant weight.

27. Environmental benefits include biodiversity net gains, the creation of a substantial area of public open space, achieving the wildlife corridor and the infilling of a major link in the Round Burbage Walk identified in the BNP. The proposal would provide for the reinstatement of the bridleway across the site and, if considered appropriate, its diversion through the open space avoiding potential vehicle/horse conflict within the development. The combination of these environmental benefits attracts significant weight.
28. Whilst the obligations contained in the UU are generated because of the development, improvements to local services and facilities could result in some wider public benefit. I attach limited weight to those benefits.

#### Planning Balance

29. The development plan includes, the Core Strategy (CS) adopted in 2009, the Site Allocations and Development Management Policies DPD (DPD) adopted in 2016 and the Burbage Neighbourhood Plan (BNP) made in 2021. Although there is an emerging local plan, the lpa confirmed that it was unlikely to be adopted before 2025. No party has given the emerging plan any weight.
30. The parties agree that, as the lpa cannot demonstrate a 5-year supply of deliverable housing land and as the CS and the DPD rely on an out-of-date evidence base, the most important policies for determining this appeal are out of date and Framework paragraph 11d(ii) is engaged. Thus, where the policies most important for determining a proposal are out-of-date, the decision maker should grant permission unless, 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.
31. There is no conflict with the CS and DPD Policy DM17 - Highways and Transportation and, given my conclusions on the impact on the traffic calming measures on Sketchley Lane, no conflict with BNP Policy 12 – Important Trees. The site lies outside the settlement boundary and for the application of development plan policy is countryside. BNP Policy 1 is supportive of residential development on land within or adjacent to the settlement boundary subject to compliance with other development plan policies. These policies are broadly consistent with the Framework.
32. The remaining relevant policies are DPD Policies DM4 – Safeguarding the Countryside and Settlement Separation and DM10 – Development and Design. Policy DM4 seeks to protect the intrinsic value, beauty, open and landscape character of the countryside by safeguarding it from unsustainable development and where it does not have a significant adverse effect on the value, beauty, open character, and landscape character of the countryside. Policy DM10c indicates that development will be permitted where it would complement or enhance the character of the surrounding area, having regard to scale, layout, density, mass, design, materials, and architectural features.
33. The scheme would have a moderate adverse landscape and visual effect at Year 1 reducing to minor as the landscaping matures and the development, particularly the traffic calming measures, would not have an adverse effect on the character of Sketchley Lane. This harm falls well below the threshold

required by DPD Policy DM4 to conflict with the policy i.e., a significant adverse effect. As layout, design and materials are all reserve matters, I have no reason to conclude that the proposal would conflict with DPD Policy DM10. Accordingly, the proposal would not conflict with the development plan read as a whole.

34. Notwithstanding the above, even if the degree of landscape and visual harm did exceed the threshold set by DPD Policy DM4, the adverse impacts of the development, including loss of B&MV agricultural land and some ridge and furrow earthworks, do not significantly and demonstrably outweigh the benefits.

### **Conditions**

35. For the reasons set out in the agreed list of conditions and having regard to PPG, the suggested conditions are reasonable and necessary. Where necessary in the interests of precision and enforceability, I have reordered and reworded some of the suggested conditions.

### **Conclusion**

36. For the above reasons, and having taken all other matters into consideration, the appeal is allowed subject to the conditions set out in the attached Schedule of Conditions.

*George Baird*

Inspector

## SCHEDULE OF CONDITIONS

1. Details of the layout, scale, appearance, landscaping, and access other than vehicular access (hereinafter called the reserved matters) shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
2. Application for the approval of reserved matters relating to the dwellings shall be made within 18 months from the date of this permission and the development shall be begun not later than one year from the date of approval of the last of the reserved matters to be approved.
3. The plans and particulars of the reserved matters referred to in the above conditions shall include details relating to the:
  - a) appearance of the development, including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes,
  - b) landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges,
  - c) layout of the site including the way in which buildings, circulation routes and open spaces are provided and the relationship of these buildings and spaces outside the development. This should include a design statement that sets out how consideration has been given to lower density to edges of site and higher density along main routes. It should also include a scheme for the treatment of the Public Right(s) of Way within the site, including provision for their management during construction, surfacing, width, structures, signing, landscaping and details of suitable crossings and safe segregation between equestrian users and vehicular traffic, in accordance with the principles set out in Leicestershire County Council's Guidance Notes for Developers,
  - d) scale of each building proposed in relation to its surroundings,
  - e) non-vehicular access for pedestrians, cycles and equestrian users.
4. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Site Boundary Drg No epd4824\_d002h received 08/09/21  
Demolition Plan Drg No epd4824\_d043c received 08/09/21  
Sketchley Lane Site Access Drg No 50711/5501/002 received 08/09/21  
Building Heights Drg No edp4824\_d015k received 08/09/21  
Land Budget Drg No edp4824\_d037n received 08/09/21.
5. Any reserved matters application relating to scale or layout shall be accompanied by a scheme which details the proposed housing mix for the development which should be in accordance with the first paragraph of Policy 16 of the Core Strategy 2009. Development shall then be completed in accordance with the approved details.

6. Any reserved matters application relating to scale or layout shall be accompanied by full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings in relation to existing ground levels. The details shall be provided in the form of site plans showing sections across the site at regular intervals with the finished floor levels of all proposed buildings and adjoining buildings. Development shall be carried out in accordance with the approved levels.
7. Reserved matters applications relating to layout, scale and appearance shall be accompanied by a scheme for protecting the proposed dwellings from noise from the road network and the nearby hotel. The agreed scheme shall be implemented in full prior to the first occupation of any dwelling.
8. The layout submitted at Reserved Matters shall provide a natural vegetation buffer zone of at least 5m alongside all retained hedgerows within the application site.
9. No development shall commence until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwellings and garages have been deposited with and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
10. No development shall commence above damp proof course level until a scheme for provision of electric charging points to dwellings has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
11. Notwithstanding the recommendations within the Phase 1 Ground Condition Assessment, no development shall commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the local planning authority. The submitted scheme shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first being occupied.
12. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination and implementation is submitted to and approved in writing by the local planning authority, which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out in accordance with the agreed implementation period.
13. No development shall commence until details of all trees, shrubs, and hedges to be retained, including any trees located outside but adjacent to the site boundary, together with the means of protecting them from damage during the carrying out of the development have been submitted to and approved in writing by the local planning authority. The approved means of protection shall be installed prior to the commencement of development and shall remain in place until after the completion of the development.
14. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted, or destroyed, nor shall be topped or

lopped other than in accordance with the approved plans, without the written approval of the local planning authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

15. No development shall commence until details of a sustainable surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The submitted scheme should include infiltration testing to confirm (or otherwise) the suitability of the site for the use of infiltration as a drainage element and should ensure that surface water does not drain into the Public Highway. The submitted scheme should also include details of the management of surface water on site during construction of the development. Development shall be carried out in accordance with the approved details.
16. No development shall commence on site until details of the long term maintenance of the sustainable surface water drainage system within the development have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
17. No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved in writing by the local planning authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details.
18. No development shall commence on site until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority and the approved details shall then remain in force throughout the construction period. The CEMP shall detail how, during the site preparation and construction phase of the development, the impact from dust, odour, noise, smoke, light and land contamination on existing and proposed residential premises and the environment shall be prevented or mitigated. The CEMP shall detail how such controls will be monitored and a procedure for the investigation of complaints.
19. No development shall commence on the site until a Construction Traffic Management Plan (CTMP), including, as a minimum, details of the routing of construction traffic, wheel cleansing facilities, vehicle parking facilities and a timetable for their provision, has been submitted to and approved in writing by the local planning authority. The construction of the development shall thereafter be carried out in accordance with the approved CTMP and timetable.
20. No demolition/development shall take place/commence until a Written Scheme of Investigation (WSI) for a Level 2 Historic Building Survey and Topographic Survey has been submitted to and approved in writing by the local planning authority. For the land and structures that are included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:

- the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works,
- the programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

No development shall then take place other than in accordance with the approved Written Scheme of Investigation.

21. Prior to the commencement of development, full details of a scheme for the provision of electronic communications networking to serve the development, including full fibre broadband connections (unless evidence is submitted to demonstrate this is not available for the site) to each dwelling, and a timetable for implementation, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and timetable.
22. No part of the development shall be occupied until the offsite works shown on Stantec drawing number 332010596-700-001 Rev A or a subsequent amended design that has been submitted to and approved in writing by the local planning authority have been implemented in full.
23. No part of the development shall be occupied until the access arrangements shown on drawing 50711/5501/002 have been implemented in full.
24. No part of the development shall be occupied until vehicular visibility splays of 2.4 metres by 45 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.
25. The agreed Travel Plan (dated September 2021) shall be implemented in accordance with the approved details.
26. No trees and shrubs shall be removed on site during the bird nesting season (1 March – 31 July inclusive).
27. Site preparation and construction work shall be limited to between 0730 to 1800 hours Monday to Friday and 0800 to 1300 hours on Saturdays. There shall be no working on Sundays and Bank Holidays.

## **APPEARANCES**

### **FOR THE APPELLANT**

Paul G Tucker KC and Arevik Jackson, instructed by Mr B Greep, Stantec UK Limited.  
He called:

Dai Lewis, BA (Hons), PG Dip LA, CMLI.  
Director, The Environmental Dimension Partnership Limited.

Bernard Greep, BA (Hons), BTP, MRTPI, MIED.  
Director, Stantec UK Limited.

### **FOR THE LOCAL PLANNING AUTHORITY**

Hugh Richards of Counsel, instructed by the Head of Legal Services, Hinckley and Bosworth Borough Council.

He called:

Dr David Hickie BSc (Hons), MA, PhD, CMLI, MIEMA, IHBC.  
Principal Consultant, David Hickie Associates.

Andrew Gray MSc TP, MRTPI, MSc, UP&R, MIED.  
Associate Planning Director, Aitchison Rafferty, Chartered Town Planning Consultants.

### **Interested Persons**

Mr Rooney  
Local Resident.

Cllr. B Walker  
Hinckley & Bosworth Borough and Burbage Parish Council.

Cllr R Fleming  
Burbage Parish Councillor & Chairman, Burbage Neighbourhood Plan Working Party.

Cllr P Williams  
Hinckley & Bosworth Borough Council.

### **Documents Submitted at the Inquiry**

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| Doc 1 | - | List of conditions.   |
| Doc 2 | - | Certified copy of the S106 Unilateral Undertaking.          |
| Doc 3 | - | Submissions by Mr Rooney.                                   |
| Doc 4 | - | Submissions by Cllr. Walker.                                |
| Doc 5 | - | Submissions by Mr Fleming.                                  |
| Doc 6 | - | Submissions by Cllr. Williams.                              |
| Doc 7 | - | Statement of Common Ground – Local Wildlife Sites.          |
| Doc 8 | - | Agreed distances for public open space gaps.                |
| Doc 9 | - | Agreed area where proposed housing development not visible. |



# Appeal Decision

Inquiry opened on 12 June 2018

Site visit made on 18 June 2018

**by Mike Robins MSc BSc(Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 July 2018**

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**Appeal Ref: APP/K2420/W/17/3188948**

**Land east of The Common, Barwell, Leicestershire LE9 8NG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 17/00531/OUT, dated 26 May 2017, was refused by notice dated 29 August 2017.
  - The development proposed is the demolition of existing agricultural structures and the erection of up to 185 dwellings with public open space, landscaping, sustainable drainage system and vehicular access.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application was made in outline with all matters other than access reserved for future determination. Nonetheless, submitted with the application was a Development Framework Plan<sup>1</sup>, which, while accepted to be illustrative, set out areas for housing and for Green Infrastructure (GI), the distribution of which was relied on in evidence. The appellant agreed in principle to conditions requiring the submission of reserved matters to be broadly in accordance with this plan. I have considered the appeal on this basis.
3. A Unilateral Undertaking, dated 19 June 2018, made under s106 of the Town and Country Planning Act 1990, was submitted to address affordable housing, landscaping and open space provision and relevant contributions. The Council were content that this properly addressed affordable housing provision. Both Leicestershire County Council (LCC), who had requested to appear at the Inquiry as a Rule 6 party, and the Council accepted that the proposed contributions relating to relevant infrastructure fully addressed their previous objections and their reasons for refusal on these matters. I address this planning obligation later in my decision.
4. A late submission comprising a previous nearby planning appeal<sup>2</sup> was made by a local resident. To ensure fairness, I allowed the appellant a short period post closure of the Inquiry to make representations.

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<sup>1</sup> 7660-L-03 Rev D

<sup>2</sup> ID8 - APP/K2420/A/12/2188915

5. The Inquiry sat for five days. In addition to two unaccompanied visits I made to view the roads surrounding the site, an accompanied visit was made with representatives of both main parties. This included the opportunity to visit the site itself and to take views from the surrounding roads and footpaths as well as from a property along Dawson's Lane.
6. Three Statements of Common Ground (SoCG) were submitted. These addressed matters relating to Archaeology, dated 3 May 2018, Highways, Traffic and Transportation, dated 17 April 2018, and one relating to housing and other matters. This last SoCG, although finalised 20 April 2018, was not fully accepted by the Council, nonetheless these matters were addressed by an agreed further note on Housing Land Supply (HLS). In light of these agreed matters, and following an earlier submission of further and revised details, including an archaeological trenching survey and the Transport Technical Note 1, the Council confirmed that they would not be pursuing their Reasons for Refusal 2, 3 and 4, although I note that a number of these matters remained ones of concern for local residents.

### **Main Issues**

7. Accordingly, the main issues in this case are:
  - The effect of the proposed development on the character and appearance of the area and on the Hinckley/Barwell/Earl Shilton Green Wedge;
  - whether there are any other material considerations, including the delivery of market and affordable housing in the context of the current housing land supply, that determine the development should be approved other than in accordance with the development plan.

### **Reasons**

#### ***Character and Appearance***

8. The appeal site comprises a number of fields to the south of the settlement of Barwell. Currently in use for the keeping of horses and the grazing of cattle, the irregular shaped site extends from Dawson's Lane south to the A47, with the access proposed to be from The Common to the west. The approximately 11.5 hectare site is made up of nine fields with substantial hedge boundaries and occasional trees, albeit some of these hedgerows are not continuous and have been replaced by post and rail fencing. The site lies within a Green Wedge that was identified as a necessary strategic intervention in Policies 1, 2 and 3 of the Hinckley and Bosworth Core Strategy, adopted 2009 (the Core Strategy), with relevant policy controls set out in Policy 6.
9. The proposed development would be adjacent to the current boundary of Barwell, along which lies some commercial development and generally large and well-spaced properties on Dawson's Lane, a number of which would look out over the site. Linear housing along The Common extends to the edge of the proposed access, while a more recent small housing estate, Garner Close, would also back onto the development. To the east are an area of allotments and a mixed use farm development, both of which lie within the Green Wedge.
10. Barwell is set on a ridge with the land sloping fairly steeply down from Shilton Road with a more gradual slope across the site itself. There is no public access to the site, although a public footpath runs from Dawson's Lane eastwards to

Leicester Road, while pavements and footways down The Common give access to the footpath/cycling network associated with the A47.

11. Located in the Green Wedge and outside of the current settlement boundary, it was common ground that the proposal would, on its face, conflict with Core Strategy Policy 6 and Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document, adopted 2016 (the SADMP).
12. It was also common ground between the main parties that the site was not of a scale to effect the national or indeed regional landscape character; I concur. The local landscape is characterised under the Hinckley and Bosworth Landscape Character Assessment (LCA), 2017, as lying within the area LCA F, Burbage Common Rolling Farmland. This LCA was updated since submission of the application, and was utilised by both main parties in their evidence to the Inquiry. Key characteristics are identified to include smaller scale pasture fields around the settlements, noted as being typical of parliamentary enclosure, urban fringe influences, sparse settlement comprising individual buildings and scattered farm complexes but with major transport corridors dissecting the landscape. Importantly, the key characteristics highlight the functional role of the landscape as part of the Green Wedge, providing separation between Hinckley and Barwell and green infrastructure to the cluster of settlements of Burbage, Hinckley, Barwell and Earl Shilton.
13. The function of the Green Wedge is set out in more detail in the Core Strategy as separating the three settlements, Hinckley, Barwell and East Shilton, to protect their individual identities. Policy 6 acknowledges that there are opportunities to enhance the amenity and ecological value of the area and identifies certain developments to be supported; these do not include housing. All other developments should comply with four criteria set out in the policy. The Green Wedge boundaries were reviewed in 2011.
14. The appellant submitted a Landscape and Visual Appraisal, dated May 2017, which was reviewed by their witness to the Inquiry, acknowledging the updated LCA. Identified as being developed in accordance with GLVIA<sub>3</sub><sup>3</sup>, the Council raised no issues with the methodology used by the appellant, but reached contrasting views in terms of their own approach and findings of effects, including that the site should be considered as a valued landscape. The appellant also carried out a site specific Green Wedge review, which concluded that the effect of the scheme would be negligible and its functions would remain intact. This contrasts strongly with the Council's findings. Consequently I consider that there are three key areas of dispute: whether the site forms part of a valued landscape; the extent of landscape and visual effects; and the effect on the functioning of the Green Wedge.

### *Valued Landscape*

15. With regard to whether the site is 'valued' in accordance with paragraph 109 of the Framework, there was some agreement between the parties on the principles of such a determination<sup>4</sup>. However, the appellant argued that while there may be visual change from the development, the site is relatively enclosed and influenced by the urban fringe, with nothing rare, distinct or remarkable about it

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<sup>3</sup> Guidelines for Landscape and Visual Impact Assessment, third edition, published by the Landscape Institute and the Institute of Environmental Management and Assessment, in 2013 (GLVIA<sub>3</sub>).

<sup>4</sup> GLVIA<sub>3</sub> Box 5.1

to establish it as valued. In contrast, the Council's evidence drew on the key characteristic of LCA F, notably the small parliamentary enclosure field system, as being a feature of rarity and importance that took the site beyond the ordinary.

16. I have no doubt that the site is greatly appreciated by local residents, both those who overlook it and those who find it provides a context of open countryside when on walks on the roads and footpaths around it. I accept that while the hedgerows defining the small-scale field enclosures would remain, the introduction of a large-scale housing scheme would significantly erode these field patterns, referred to as a key characteristic of the landscape. It has a clear value and plays an important role in the setting of the settlement, and I address this in more details below. I also accept that, while public access is not formally allowed, the appeal site has a recreational and perceptual value to those using the footpaths and footways. It contributes to the experience of nearby residents and those passing and I can understand how local people draw the conclusion that the site is an important area of countryside.
17. However, in my view, such a contribution, and the presence of such field patterns, cannot be considered to be so significant or the landscape be so rare as to make this site 'valued' in the context of the Framework. The Council themselves accepted that there were no perceptual aspects and associations or conservation interests; overall, I consider it not to be a 'valued' landscape.

#### *Landscape and visual effects*

18. This finding does not devalue the landscape and it is a site that I consider plays an important role in the setting of the settlement, a role recognised in the LCA, which considered the urban characteristics of Barwell under UCA 9. While the site is relatively well enclosed, the introduction of a large housing estate and the necessary works to provide a safe access would, to my mind, extend the settlement considerable closer to the A47 and this change would have a negative impact on the countryside landscape and the settlement, whose key sensitivities include its rural setting and views to the south from Shilton Road.
19. The appellant, referring to the settlement edge location and the presence of uses and influences around the site, found it to have a low-medium susceptibility to change and to be of medium landscape value. Thus reaching a general finding of landscape effects in the immediate local context as moderate adverse reducing over time, and minimal on the wider scale. Visually, it was argued that while nearby residents may experience notable visual change, for receptors beyond these properties, the effects would be minor to moderately adverse, reducing over time.
20. However, while I note the appellant's findings, I consider that they have underplayed the impact of up to 185 dwellings on the landscape here.
21. In landscape terms, I accept that there is an urban influence to the northern edge of the site, in particular from the commercial development along Dawson's Lane. However, from within the site and indeed from views over it from Shilton Road, along Dawson's Lane and overlooking from the allotment area and its parking, the site is demonstrably a part of the countryside and, importantly, reflective of the key characteristics of the landscape here, in that it provides an important role in the setting of the settlement and as a buffer to the A47 and the rural character beyond. Similarly, to the lower part of The Common, the

substantial hedgerow and glimpsed views into the site reinforce the presence of a rural landscape buffer and separation of the town from the A47.

22. Whilst the scheme proposes to retain, manage and reinforce the hedgerows, they will no longer define field boundaries, but will become somewhat arbitrary boundaries between groups of houses with interlinking roads. There is benefit in their retention, but the introduction of large scale housing here would represent a considerable erosion in the landscape value and the characteristic small-scale field pattern.
23. This cannot be set aside because the site is relatively well contained, nor because additional land has been identified to provide areas of managed but open land to the east and south of the site. While on an individual scale, houses may not be readily perceived, I have no doubt that the rooflines, the general groups of houses, some visible gables and the activity from an estate of up to 185 houses would have a presence that would alter the experience of the landscape fundamentally, eroding its current nature and its role in the setting of Barwell; it is a change that would be clearly perceived.
24. Visually, the well contained nature of the site arises ostensibly because of the relatively flat topography, the surrounding hedgerows and the limited viewpoints from within the town, and this may limit the visual impact somewhat. Nonetheless, for those using Dawson's Lane, and progressing along the lane to the allotments and into the fields to the east, and for all entering or leaving Barwell along The Common, their experience of the town and its relationship with the countryside would be very different. The overview offered from Shilton Road, and recorded as being important in the key sensitivities and values of Barwell, set out under UCA 9, would also change. I accept that there has been a response in the site layout to provide the clearest view from here as a managed area of open space, but this too would represent a change from rural/agricultural character, and there would undoubtedly be perceptions of the housing too. While the long distance views out over the site from Shilton Road would remain, the nearer distance ones would not be of countryside extending deep into the town, but of managed space and housing extending further from the current urban edge.
25. Along The Common, the necessary alterations to the road, the setting back of the hedge and the more open views into the estate would all pronounce the presence of housing here and a further indication of the urban edge of the town being pushed considerably closer to the A47.
26. In relation to both visual and landscape effects, while I consider there is a certain attraction to the simplified approach to assessment offered by the Council, there are risks in terms of a full understanding of some of the findings, which may be further affected by the conflation of landscape and visual elements. I fully accept GLVIA<sub>3</sub> is not prescriptive; nonetheless, it has and does provide a guiding framework for the analysis of landscape and visual effects. Consequently, while I found the appellant's arguments to underplay effects outside of the site, I found those of the Council, promoting generally high significance across all elements, to not be fully reflective of the urban fringe elements of the site, nor its relatively well contained nature.
27. However, in conclusion, I do find that the appeal scheme would represent a large incursion of housing into a landscape which, while being on the edge of a town retains a strong rural character, particular where perceived from the adjacent

roads and footpaths. While I accept that LCA F is a relatively large scale area, the scheme would harm key characteristics specifically identified as supporting the setting of the town and would significantly erode the character of the landscape here. I consider that the LCA has correctly identified key sensitivities in the rural setting and the views south towards the countryside in which the appeal site plays a substantial role. Such harms would be only somewhat moderated by the proposed layout and the reinforcement of some of the landscape features, and while the commitment to a high proportion of public open space may be a positive addition, it is insufficient in my mind to set aside the considerable harm to the character and appearance of the site.

### *Green Wedge*

28. The role of the Green Wedge is identified as seeking to guide the development form of an urban area, maintain settlement identity through protecting the separation of settlements and contribute to the quality of life of residents by providing accessible green infrastructure. Originally introduced by Structure and Regional Plans, this Green Wedge was identified in the Core Strategy, with specific policy controls set out in Policy 6, but with a requirement for a review as part of the development of the SADMP. The SADMP refers to the Green Wedge in various policies, but seeks protection through compliance with Policy 6 of the Core Strategy.
29. The review was completed in 2011 and divided the Green Wedge into a number of areas. The appeal site lies within Area C, the findings for which were that the site is particularly sensitive to coalescence, the provision of a green lung and a recreational resource; the review made no suggested boundary amendments. The assessment found that any significant built development in Area C would have an impact on coalescence. An assessment of the Strategic Housing Land Availability Assessment (SHLAA) (2009) sites in the review, also identified a site referred to as 'Land east of The Common/South of Dawson's Lane', AS64, which was considered to be 'non-developable'. The comments of the Local Plan Inspector at that time noted that the release of such sites for housing would weaken the function of the Green Wedge. I have no detail on the specific site or scale of that SHLAA proposal, but it would appear relatively analogous to the appeal site, albeit I note the reference to those sites being highly visible and I have accepted that the housing element of the appeal site would be visually contained.
30. Core Strategy Policy 6 is permissive of certain developments, the list of which does not include housing. However, this is not, and cannot be a Green Belt style policy, and other land uses can be considered against further criteria, including that the development should retain the function of the Green Wedge, retain green networks, retain and enhance public access and retain the visual appearance of the area. I am satisfied that such an approach is consistent with the Framework.
31. A site specific Green Wedge Review presented to the Inquiry by the appellant concluded that there would be a negligible effect on the separation of Barwell and Earl Shilton, that the proposed development would establish a more defensible boundary, enhancing the guiding of development form, and that the opening up of the open space to public access would enhance its recreational role while providing connectivity to the paddocks below Shilton Road, maintaining the green lung element.

32. In practical terms, the settlements of Barwell and Earl Shilton are already joined near the junction of Leicester Road, Shilton Road and Hinckley Road. However, this was the case when the Green Wedge was reviewed and its key role in preventing coalescence of the towns identified. A gap is established by the Green Wedge from The Common across to Elvesthorpe Lane, with the extension of open paddocks extending up to Shilton Road providing an important green lung element and a clear appreciation of the town's setting and relationship to the wider countryside.
33. While I note the appellant's argument that housing would not extend further east than the individual plots on Dawson's Lane, I am not convinced by this. A housing estate of the scale promoted here would undoubtedly have a far greater density and impact than the individual houses in expansive plots found along Dawson's Lane and the housing would project substantially southward, beyond the existing housing on The Common. For those passing along Dawson's Lane or along The Common, or those with glimpsed views from the allotments and back from the footpath linking to Leicester Road, or even from the future paths associated with the development were it to occur, the estate would be clearly perceived as a significant incursion into the Green Wedge.
34. While this may represent only a small part of the wider Green Wedge, it is a substantial part of the Area C considered in the 2011 review. To suggest that the function of the Green Wedge is not affected because only a relatively small part would be lost is not a sufficient argument on its own, and is one that if repeated would lead to substantial erosion of that function. This proposal would result in increased coalescence of the settlements of Barwell and Earl Shilton.
35. Turning to the function of guiding development form, this may well be a forward planning function, but it is to guide the form of new development as urban areas are extended. It is not intended to encourage development within the Green Wedge, and indeed is likely to have contributed to decisions regarding the location of the Strategic Urban Extensions. Where development does take place it is, to my mind, intrinsically linked to maintaining the roles of preventing coalescence, encouraging the provision of recreation resource and acting as a green lung.
36. I do accept that providing open access to the eastern field with connections through housing to the southern field and potentially onto the footway and cycleway network of the A47 would enhance public access and provide a recreation resource. However, it would do so by narrowing the countryside incursion to Shilton Road and altering its characteristics, while also, as I have set out above, altering the experience of those using the existing routes from one of entering the countryside to one of an urban extension towards the A47.
37. The current boundary here is twofold, with Shilton Road establishing the edge of the countryside incursion and Dawson's Lane the extent of housing. I accept that this weakens the boundary somewhat, but I cannot accept that extending housing further towards the A47 would strengthen it.
38. Overall, the enhanced public access would not outweigh the reduced green lung function and the clear perception of coalescence that would be introduced by the scale of housing proposed.

### *Conclusion on Issue 1*

39. I accept that the scheme has had landscape input into its layout as set out in the Development Framework Plan, and that the provision of green infrastructure and public access has further informed the in principle layout. I also accept that, for the purposes of the Framework, the site should not be considered 'valued'. Nonetheless, I have identified that the scheme would harm the character and appearance of the landscape here, resulting in a perception of the town extending south towards the A47, and an erosion of the Green Wedge, which, despite some additional recreational resource provision would result in harm to its function and the visual appearance of the area, increased coalescence and a reduction in the green lung. In this I find that the scheme would differ from that considered in another part of the Green Wedge by an Inspector in 2011<sup>5</sup>, where that site was found to not harm the character and appearance of the area including the Green Wedge, and was a site identified in the SHLAA and surrounded by defensible boundaries.
40. The proposal would fail to comply with SADMP Policy DM4 and Core Strategy Policy 6, in this regard. These policies seek to ensure that the intrinsic character and beauty of the open countryside is protected and development in the identified Green Wedge restricted to that which would promote the positive management of the land and its functions.
41. It was common ground that the Core Strategy policies seek to provide for housing across the district drawn from an earlier requirement now found to be lower than the assessed need now. As a consequence these policies can be considered to be out of date, as must the SADMP policies which similarly draw on the Core Strategy approach. The scheme, and the weight arising from conflict with these policies, must therefore be carefully considered against the weight of all relevant material considerations.

### **Material Considerations**

42. The Framework is a notable material consideration in housing cases. Here it is accepted that the Framework seeks to boost significantly the supply of housing. As a result of the acceptance that the development plan policies are out of date, with the housing requirement being agreed as 471<sup>6</sup> dwellings per annum (dpa) rather than the 450 dpa established under the Core Strategy, this affects the weight ascribed and I address this in my planning balance below. Furthermore, the tilted balance as set out in the Framework's presumption in favour of sustainable development, also applies. This sets out that for decision taking, planning permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole.
43. Specific benefits were highlighted by the appellant who also argued that there was particular weight arising in favour of open market and affordable housing as a result of the housing land supply (HLS) situation within the Borough.

### *Housing Land Supply*

44. Put simply, the Council consider that they can demonstrate a 6.06 years supply, while the appellant's set out 3.0 to 3.5 years supply. The difference arises in the

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<sup>5</sup> APP/K2420/A/10/2142660

<sup>6</sup> Taken from the Leicester and Leicestershire Housing and Economic Needs Assessment (HEDNA) 2017

contention that the Council should utilise a 20% rather than a 5% buffer, as per paragraph 47 of the Framework, and in the assessment of supply from six large sites and two Strategic Urban Extensions (SUEs).

45. Turning to the buffer, the Framework requires that Councils plan for a five year supply of deliverable sites with an additional buffer of 5% to ensure choice and competition in the market; only where there can be demonstrated a record of persistent under-delivery should the buffer be increased to 20%. The evidence indicates that for seven of the previous twelve years the relevant housing target has not been met; this is the appellant's preferred period for assessment. The Council point to the past seven years, where for four years the target has been exceeded and a surplus of housing delivered overall.
46. It is of note that previous Inspectors looking at the issue of the appropriate buffer<sup>7</sup> in recent appeals have not found evidence of persistent under-delivery, although I accept they have looked over different periods and that, as the appellant points out, delivery over the past few years indicates a downward trajectory. However, it cannot be realistic to expect a Council to exactly meet their targets every year, there must be some variation in delivery and there will be peaks and troughs.
47. While this supports examining trends over the long rather than short term period, ultimately this is a judgement on whether a Council have responded to the requirement to support housing delivery as sought by the Framework. The Core Strategy envisaged a housing supply dominated by delivery from the two SUEs. I deal with the delivery from these later, but there is no doubt that these did not deliver as expected in the years following the adoption of the Core Strategy. Despite this, a strong supply of housing has been maintained, excepting the period of national downturn post 2007/8.
48. Considered on this basis, the under-provision over the twelve year period of some 261 houses and the over-provision in the last seven years against the higher HEDNA target, which reflects previous under-supply, is not, to my mind, indicative of a Council that can be said to have persistently under-delivered. Accordingly, I consider that a 5% buffer is appropriate.
49. Turning to supply, the Council's assumptions on delivery from six sites and the SUEs were challenged by the appellant. Subject to the appellant's acceptance of delivery from Island House, the differences are set out in the table in the agreed HLS SoCG.
50. The inclusion of sites and estimation of housing from those sites depends on an assessment of their deliverability; in effect the likelihood that housing will be delivered in the five year period on that site. In light of previous judgements, it is appropriate to consider this to compromise three elements. The appellant does not challenge that these sites are available, nor that the location of the sites is unsuitable, but suggests that delivery as expected by the Council is not a realistic prospect within the five year period. As set out in the St Modwen Development Case<sup>8</sup>, *"The assessment of housing land supply does not require certainty that the housing sites will actually be developed within that period. The planning process cannot deal with such certainties."*

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<sup>7</sup> APP/K2420/A/2208318, APP/K2420/W/15/3003301, APP/K2420/W/15/3004910

<sup>8</sup> CD 12.4 - St Modwen Developments Ltd and (1) Secretary of State for Communities and Local Government (2) East Riding of Yorkshire Council and Save our Ferriby Action Group [2016] EWHC 968 (Admin).

51. Accordingly, there are uncertainties in the deliverability of any site, including variations in the market, the availability of relevant infrastructure, even the availability of skilled craftsman, which may alter circumstances and many will sit outside of the Council's control. I am satisfied that the onus is to show not that there is clear and certain evidence a site will go ahead, but clear evidence, beyond that of mere doubt, that there is no realistic prospect of the site being developed within the five year period. I have considered the relevant sites on that basis.

*Land off Paddock Way*

52. A lapsed planning permission on this allocated site allowed for a development of 10 houses. Although the developers are now appealing a refusal for a scheme of 55 houses, the allocation, the previous permission and the small-scale nature of this scheme leads me to conclude that there is a realistic prospect of at least 10 houses being delivered within the period.

*Sedgemere*

53. Although the site has planning permission for 57 units, the developer is reported to be seeking a variation to reduce this to 45 units, responding to an infrastructure issue. The Council report they are minded to approve, but accept there is a land ownership issue, although the evidence from the developer suggests this is being addressed. To my mind, there is a willing developer, prepared to address the infrastructure and land ownership constraints on the site, and there is sufficient time to deliver the units even were there to be some delay engendered by the land ownership issue.

*Birch Close*

54. This is a site for an affordable housing development, with grant support, and a previous permission. During the course of the Inquiry, the Council reported that agreement on the level of contributions had been reached, with a positive recommendation to Committee. I accept that this does not guarantee a positive outcome, but it is indicative that there is a viable development being actively pursued, and even if there were to be some delays through further negotiations, it remains a realistic prospect for delivery within the period.

*Westfield Farm*

55. This is a site with outline permission and a reserved matters application for 328 units. Both parties accept that housing will be delivered on the site, but the appellant considers that delays will mean that completions will be pushed back a year reducing the contribution from 192 to 135. The forecasted delivery is from the developer, confirmed by email. While I note that this does not confirm actual delivery rates and must be treated with some caution, there is no evidence before me to suggest that such a trajectory indicates anything other than a willing developer, keen to start work on site. However, the stated intention to complete units within the current year would appear somewhat ambitious in light of the need to resolve the reserved matters and s106. Accordingly, I consider that it would be realistic and appropriate to discount the identified 2018/19 units, a reduction of 14.

*Land north east of Triumph Motorcycles*

56. This is a site with outline planning permission and a reserved matters application. Currently suggested to be taken forward by a single housebuilder, the ambition is to deliver at 80 dpa with an overall contribution of 300 units. Correspondence with the developer indicates a somewhat reduced contribution in the five year period from previous assessments, based on land negotiations and a later start. Nonetheless, the developer still expects to achieve this level of annual delivery. This is contested by the appellant, who consider that 120 units should be discounted.
57. Two issues arise, whether such delivery rates are feasible in the Hinckley market from a single developer, and whether it is realistic to achieve completions within the time frame set out.
58. The Council generally accept a 40 dpa figure for a single housebuilder in the Hinckley area. However, the appellant accepted that the developer promoting the land, and with direct association with the Triumph factory, had delivered housing at this rate in other areas, albeit these were, in the appellant's opinion, areas with stronger housing markets. It would appear that a build-out rate of 80 dpa has not been achieved by a single housebuilder in the Hinckley area, nonetheless, the Council's evidence suggest, via email confirmation, the developers intention to do so here.
59. I must assess what is realistically deliverable on this site. While it is clear, and accepted between the parties, that there is a willing developer, and one with experience of delivering at high annual rates, I am concerned about the need to complete on land negotiations and particularly to complete on the infrastructure requirements to deliver the scheme. While I note the developer's intention to begin this infrastructure work in January 2019, and that there may be the potential to develop the scheme's earlier phases in parallel, in my view, a discount reflecting potential delays should be applied to the contribution to the five year supply.
60. I have no convincing evidence that the ambition of this particular developer, as regards build-out rates, will not be fulfilled, but consider it realistic to accept that the delivery of completed dwellings will be delayed, thus removing 60 units from the Council's calculations. Such an approach is reasonable, resulting in a current assessment of the delivery of housing from this site at 240 units in the five year period.

#### *Brick Pit*

61. A former clay pit which has planning permission for the importation of material to fill the pit and for residential development for up to 60 dwellings; this was granted on appeal following application to LCC. The site is an allocation and a reserved matters application has been submitted to LCC. However, the Council have refused permission for a scheme for 60 houses submitted to them; it would appear that an appeal has been lodged against that decision. The Council report that the scheme is for affordable housing and is grant funded and that their objection is solely on design matters.
62. The principle of residential development on this site would appear to have been established by the extant planning permission. The Council has suggested delivery in the last two years of the five year period, reflecting the need to fill the pit prior to development. Nonetheless, while acknowledging the uncertainty associated with the currently refused application to the Council, the extant

permission and the funding support would suggest that delivery of this site remains realistic at this point.

### *The Strategic Urban Extensions*

63. The Core Strategy, Policies 2 and 3, allocated land to the south of Earl Shilton and the west of Barwell for SUEs. This was supported by the Earl Shilton and Barwell Area Action Plan (AAP), where the allocations were proposed for delivery under Policy 1, and were included in the SADMP. Initial projections in the Core Strategy were that housing would arise from the SUEs in 2012/13 and should by today's date have been delivering approximately 400 dpa. This has clearly not happened.
64. The bringing forward of such large sites, with land ownership, infrastructure and delivery issues, is a complicated process and the Council admitted that they have needed to provide additional resources through a major projects team to help move them forward.
65. Nonetheless, there is no question that the Council have considered that the SUEs would provide housing much earlier in the plan period than is now reflected in the evidence before me. This is recognised in a number of appeal decisions<sup>9</sup> provided, which have either reflected on the delays and uncertainty and discounted delivery from these SUEs, or later decisions that have relied on revised delivery trajectories to support the Council's projections on housing supply.
66. The Council have provided more recent evidence of discussions with developers and the consortiums involved, and confirmation that there has been progress on the sites such that they are promoting a revised projection of 500 units, delivering from year 2, at Barwell, and 380 units, delivering from year 3, at Earl Shilton.
67. The appellant points to what they consider to be continuing uncertainties and questions over the engagement with the consortia involved, which they say undermine the Council's assessment. By further reference to a report carried out by Hourigan Connolly<sup>10</sup>, which the appellant promotes as evidence that such developments do take a protracted period to come on-line, it was suggested that the circumstances at both SUEs mean that there will be no housing delivery within the next five year period.
68. For the Barwell SUE, an outline planning application for a mixed use scheme comprising up to 2500 dwellings was submitted in 2012, and a resolution to grant permission made in 2013, updated in 2015. There is no doubt there has been protracted negotiations over the site and in particular the s106 agreement necessary to progress to a grant of planning permission. However, it is also clear that significant strides have recently been taken. It was reported that the majority of interested parties had now signed the agreement. No substantive evidence was put to me that others, reported to be only two parties, would not. I accept that signing a document should be a relatively quick process. However, it is not unreasonable to expect that each of the reported 14 parties involved

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<sup>9</sup> Including APP/K2420/A/13/2208318, APP/K2420/W/15/3004910 and APP/K2420/W/17/3187222, 3186837, 3186840

<sup>10</sup> A Report into the Delivery of Urban Extensions, on behalf of Gladman Development Ltd 2014 – Appendix 2 Mr Tait PoE.

would need time ensure that the document was fully in accordance with the lengthy discussions that must have preceded its production.

69. The appellant also points to the recent loss of a national housebuilder from the consortium. I accept that this would appear to reduce the potential for the highest delivery rates anticipated from the site in early years, were they not to be replaced. However, I do not consider that an inference on the quality of the scheme or opportunity at Barwell can necessarily be drawn, as I have no substantive evidence on the reason for that withdrawal. Furthermore, the revised trajectory presented to this Inquiry is indicative of a lower number of housebuilders on site in the early years.
70. This trajectory, as presented by the lead developer, is strongly questioned by the appellant, suggesting that the Council encouraged a 'positive' response in referring to this appeal and to potential competition. This latter point has limited traction, with in excess of 450 dwellings identified as needed per year, even a development of the scale of that before me cannot realistically be considered as sufficient competition to limit the deliverability of a 2500 dwelling scheme planned for delivery over some 15 years.
71. I have considered the wording of the correspondence between the Council and the developers carefully. There is some insistence on needing a response and some reasons given for that, but this could reasonably be concluded as being driven by the timescales of the submission of evidence and I cannot conclude that it necessarily has resulted in an overtly optimistic trajectory. As I have indicated above, such developer projections regarding delivery from development may need to be treated with caution, but I can see no reason why, in this case, a conclusion that no housing will come forward, as promoted by the appellant, should be necessarily be drawn.
72. There is clearly further work required before housing can be delivered on site, not least completion of reserved matters, highway agreements and infrastructure provision. However, following completion of the s106, the Council have delegated powers to issue the planning permission, which will be a very significant step forward. I note the matters raised in *R (oao Kides) v South Cambridgeshire DC*<sup>11</sup>. However, with the Council's Committee having last considered the scheme in 2015, I see no reason why that delegated decision should not be forthcoming. It is an ambitious target to be delivering housing in 2019/20 on this site, but noting the recent progress made, I have no compelling evidence to suggest that it is not now realistic. To that extent I am in agreement with my colleague in the recent linked appeals at Stanton under Bardon<sup>12</sup>, although I cannot presume what evidence was before that Inspector.
73. Turning to the Earl Shilton SUE, there is no planning permission or indeed application, but the Council report that it is the intention of the consortium to resolve viability issues prior to applying, and the Council to secure a planning performance agreement (PPA) to support the process.
74. However, it would appear that viability, an aspect of deliverability highlighted in the Framework, is a significant issue at present. The Council suggest that no affordable housing proposed on the site is only a starting point, and the response

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<sup>11</sup> ID 11 - *R (oao Kides) v South Cambridgeshire DC* [2002] EWCA Civ 1370

<sup>12</sup> APP/K2420/W/17/3187222, 3186837, 3186840

from the consortium would suggest that they are content with the proposed trajectory on the basis of their discussions, including on viability.

75. My colleague in the Stanton under Bardon appeals had concerns over delivery, suggesting a delay of a year, which has been factored into the projections before me. I have similar concerns about the time that will be taken to resolve the viability issues, albeit I cannot see these as preventing development entirely on the site. There are further requirements including completing the Environment Statement, negotiating a final s106 agreement and achieving planning permission, even before site issues relating to infrastructure and groundworks can begin. On the basis of the evidence that is before me, and taking account of the benefits that the experience of the Barwell SUE and potential front-loading of some issues will bring, I still consider that the proposed delivery is optimistic. However, I do not accept that there will be no delivery within the five year period and consider that a further year of delay is likely before housing is successfully delivered on the site. I conclude that an overall delivery of 220 units from the site remains realistic; a discount of the 160 units from year five.

#### *Conclusions on Housing Land Supply*

76. I have found that a 5% buffer is appropriate at this time, and have carefully considered the deliverability of the proposals relied on by the Council in reaching their assessment of supply over the five year period. The availability and suitability of the relevant sites are not contested in principle, and the Council have provided evidence to support their conclusions regarding the realistic prospect of delivery. In most cases I am satisfied that this evidence is sufficient. While there were arguments put which may suggest doubts over deliverability, and unquestioningly for some of the sites further challenging work may be needed to ensure that delivery, these generally have not amounted to the sort of robust evidence necessary to suggest that the sites are not capable of delivery; certainty does not need to be demonstrated.
77. However, I have found some questions over the delivery of housing from Westfield Farm, land northeast of Triumph Motorcycles and the Earl Shilton SUE. Cumulatively this results in a reduction in the Council's projected supply of some 234 dwellings, resulting in a 5.5 year supply. Even if I were to discount, for example, the Barwell SUE by a further year at 200 units, the figure would reduce to a 5.1 year supply, which, although marginal, would still confirm that the Council could meet the Framework requirement.
78. Accordingly, I conclude, for the purposes of this appeal, that the Council can currently demonstrate a five year supply of deliverable housing land.

#### *Other Matters*

79. I am conscious of the significant concerns of local residents as regards highway safety matters, particularly on The Common, surface water drainage concerns and the possibility of garden or even property flooding, and wildlife concerns.
80. The appellant provided a comprehensive set of transport assessments and confirmation that the design of the access was agreed with the Highway Authority. A proof of evidence was submitted to the Inquiry and I had the opportunity to question the appellant's highway witness. I can understand concern that such a large development would introduce considerable levels of traffic. However, I have reviewed the evidence submitted and note that where

congestion may result, appropriate contributions had been agreed to address this, with further contributions to support public transport options. In relation to highway safety, the narrow sections of The Common were noted, but the evidence does not support increased safety concerns.

81. Turning to drainage issues, there is clearly some historic surface water drainage issues associated particularly with the western and southern parts of the site, and a flood risk assessment and surface water drainage strategy have been developed, including a proposed attenuation basin. With appropriate conditions, I see no reason why a drainage solution could not have been delivered at this site that would mitigate for the areas of hard surfacing and run-off and ensure that the surface water drainage to surrounding properties would not be increased.
82. While I have noted further local concerns regarding the presence of wildlife on the site, it is currently predominantly pasture land with limited environmental potential. The hedgerows would provide some foraging areas and habitat, but as set out in the Ecological Appraisal, the intention is to retain all trees and hedgerows as part of the scheme and provide new habitats associated with the open space and drainage features. With appropriate conditions, I can see no reason why the site could not have been developed without significant impacts on biodiversity.
83. There were no objections from the Council or the Highway Authority and LCC on these matters.
84. Local residents did submit a previous appeal<sup>13</sup> from 2013 regarding development of the land to the north of Dawson's Lane running up to Shilton Road. This found significant harm arising to the green lung function of the Green Wedge. To a limited extent this could be considered to reinforce my concerns regarding the views and experience of users of Shilton Road when looking out over the appeal site, but must state that this development would be on the steeper slope element and considerably more visible to those looking out from this vantage point.
85. Finally, turning to the submitted planning obligation, I have set out above that the UU was confirmed by the Council and LCC, acting as a Rule 6 party, to meet their requirements. Notwithstanding the Council's submitted CIL compliance report<sup>14</sup>, the appellant raised some issues regarding the approach set out in the AAP. In light of my overall finding in this case there is no need for me to assess these matters further. However, I am satisfied that, where relevant, the UU presented suitable mitigation approaches for any potential harms that could arise from the development. These are therefore neutral in any planning balance, and I have noted benefits associated with public access. Furthermore, it makes suitable provision for affordable housing, which would represent weight in favour of the proposal, which I address below.

## **Planning Balance and Conclusions**

86. While I have found that the Council has demonstrated a five year HLS, policies in the Core Strategy and the SADMP are accepted to be out of date as they focussed on delivery of a lower housing requirement than is now accepted by both main parties. Nonetheless, Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990

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<sup>13</sup> APP/K2420/A/12/2188915

<sup>14</sup> Community Infrastructure Levy (CIL) Regulations 2010 (as amended)

require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The tilted balance as set out in the Framework applies.

87. Notwithstanding the age of the Core Strategy and the altered housing need, the Council would appear to have maintained sufficient flexibility in the application of those policies to ensure that housing supply has remained relatively strong, even in light of the delays associated with the SUEs, as set out above. In these circumstances, I consider the proposal, set in the countryside and outside of the settlement boundary for Barwell, conflicts with the strategic approach to housing. I am further satisfied that the policies against which I have found specific conflict, Core Strategy Policy 6 and SADMP Policy DM4, remain consistent with the Framework and I accord them significant weight. However, I do recognise the Framework seeks to significantly boost the supply of housing.
88. The proposal would result in the delivery of up to 185 houses, including up to 37 affordable homes. That nationally there is a need for housing is accepted, that there is a local need for affordable housing is also accepted. However, although these benefits were agreed by the Council to be significant, in light of my findings on the five year HLS, this tempers the weight that I ascribe to the provision of this housing.
89. To this I can add economic benefits associated with construction, albeit these would only be temporary, additional spend in Barwell, although there is no evidence that the town needs additional housing to support its level of facilities and services. I note the SoCG accords these significant weight, although these are benefits that would arise with any housing development. I give moderate weight to the enhanced access provided by the open space proposed and some further moderate weight to the enhanced biodiversity associated with the reinforcement and new planting of hedgerows and trees.
90. Against this, I have identified harm to the landscape character and appearance of the area. On its own, because of the relatively contained nature of the site, this would attract moderate weight, and I am conscious that to meet the housing needs, greenfield sites adjacent to current settlement boundaries may have already been permitted and are likely to be permitted into the future. However, the site is also an integral part of a Green Wedge, I have set out above that I consider the site would significantly erode the function of coalescence, visual appearance and the green lung element afforded by this site. These harms together lead me to conclude that substantial harm arises to the character and appearance of the countryside, the setting of the town and the function of the Green Wedge. On balance, and in light of my findings on the provision of housing in the Borough, I consider that these adverse effects significantly and demonstrably outweigh the benefits I have identified.
91. Accordingly, the presumption in favour of sustainable development does not apply and material considerations do not justify making a decision other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Mike Robins*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards of Counsel	Instructed by Hinckley and Bosworth Legal Services
He called	
Dr David Hickie BSc(Hons) MA PhD CMLI MIEMA IHBC	David Hickie Associates – Landscape consultant
Helen Nightingale MRTPI	Principal Planning Officer (Major Projects) – Housing Land Supply
Helen Knott MRTPI	Principle Planning Officer

### FOR THE APPELLANT:

Thea Osmund-Smith of Counsel	Instructed by Gladman Developments Ltd
She called	
Jason Tait BA(Hons) DipTP MRTPI	Planning Prospects – Housing Land Supply
Timothy Jackson BA(Hons) DipLA CMLI	FPCR Environment and Design Ltd – Landscape and design
David Schumacher MSc DipMS CMILT MCIHT	PRIME Transport – Highways
Laura Tilston BSc(Hons) MA MRTPI	Gladman Developments Ltd

### INTERESTED PERSONS:

Mrs Rosemary Leader	Local Resident
Mrs Diane Vernon	Local Resident
Mrs Susan Lamprell	Local Resident
Mr Paul Lamprell	Local Resident
Mr Steven Djurovich	Local Resident

## DOCUMENTS

- ID1 CIL Compliance note
- ID2 Appeal decision APP/X1355/W/17/3180108
- ID3 Appeal decisions APP/K2420/W/17/3187222, 3186837, 3186840
- ID4 s106 Unilateral Undertaking
- ID5 Appellant's opening statement
- ID6 Council's opening statement
- ID7 Draft Conditions
- ID8 APP/K2420/A/12/2188915
- ID9 Council's closing statement
- ID10 Appellant's closing statement
- ID11 R (oao Kides) v South Cambridgeshire DC [2002] EWCA Civ 1370
- ID12 Appellant's response to ID8.



## Appeal Decision

Inquiry held on 13-16, 20-21 and 23 April 2021

Site visit made on 22 April 2021

**by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC**

**an Inspector appointed by the Secretary of State**

**Decision date: 21<sup>st</sup> May 2021**

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**Appeal Ref: APP/K2420/W/20/3262295**

**Land at Wykin Lane, Stoke Golding, Nuneaton CV13 6JG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Davidsons Developments Ltd against the decision of Hinckley & Bosworth Borough Council.
  - The application Ref 19/01324/OUT, dated 15 November 2019, was refused by notice dated 17 June 2020.
  - The development proposed is the construction of up to 55 dwellings, all matters reserved, except for access.
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of up to 55 dwellings, all matters reserved, except for access, at land at Wykin Lane, Stoke Golding, Nuneaton CV13 6JG in accordance with the terms of the application, Ref 19/01324/OUT, dated 15 November 2019, subject to the 24 conditions set out in the attached schedule.

### Procedural Matters

2. The original application was made in outline with all matters reserved except for access. I have had regard to the illustrative masterplan ref P18-2922\_03 Rev C, but consider that all of the details shown are indicative only with the exception of the access point onto Wykin Lane.
3. The submission version of the Stoke Golding Neighbourhood Plan (SGNP) was received by the Council shortly before the inquiry opened. The Rule 6 party Friends of the Community: Stoke Golding ('the Friends') provided the inquiry with a copy of the submission plan. A completed and executed Section 106 agreement (S106) was submitted by the appellant shortly after the close of the inquiry. I have had regard to both documents in my decision along with all other documents submitted to this appeal.

### Main Issues

4. The main issues are:
  - i) the effect of the development on traffic movements and highway safety;
  - ii) the effect of the development on character and appearance of the countryside;
  - iii) the effect of the development on local infrastructure provision;

- iv) whether the Council can demonstrate a 5 year supply of deliverable housing sites; and
- v) the overall planning balance having regard to the adopted and emerging development plan (including the Stoke Golding Neighbourhood Plan) and national policy.

## **Reasons**

### ***Traffic movements and highway safety***

#### *The existing context*

5. The site adjoins Wykin Lane which connects Stoke Golding to the neighbouring village of Wykin, by which point its name changes to Stoke Lane (hereafter referred to as the lane). It is a narrow single track lane from the edge of Stoke Golding southwards with a number of formal and informal passing places such as driveways. In Wykin, the lane ends at a T-junction with Higham Lane / Wykin Road. From there, it is a short journey along Wykin Road to the A47 and the northern edge of Hinckley, including the emerging new housing development at Hinckley West. An alternative route between Stoke Golding and Hinckley is via Stoke Road, a road of a more standard width for two-way traffic.
6. The lane contains sections of relatively straight and flat road, but also has some bends and undulations, with a 90 degree bend on the north side of Wykin. This creates limited forward visibility in a number of places. There is no street lighting outside the built-up areas of the two villages and no pavement south of the new Stoke Golding cemetery. Between the edges of the two villages, the national speed limit applies. In reality, speeds tend to be lower due the nature of the lane. Warning signs at either end of the lane note it is unsuitable for heavy goods vehicles (HGVs) although some HGVs including tractors use the lane to access farms and businesses. A secondary school mini-bus to and from Hinckley also uses the lane.
7. Traffic count data reveals around 6,000 vehicles pass the edge of Stoke Golding in one week, with around 80-85 vehicles recorded in the AM and PM peak hours on average. From my site visit observations across the afternoon and early evening of 22 April 2021, the lane had a regular flow of traffic, albeit with some lengthy gaps between vehicles and it was not as busy as Stoke Road around the end of the school day. It is apparent that satellite navigation systems direct traffic along the lane including delivery vehicles and tourists. The Friends and interested parties refer to an increase in background traffic as a consequence of developments elsewhere, with rat running to avoid busier routes like the A5.
8. The lane is popular with and well-used by non-motorised users including walkers, cyclists and horse riders. It is also used by people in wheelchairs and those with buggies. Survey data and my site visit observations indicate that most walkers use the first stretch of the lane nearest to Stoke Golding before turning onto one of the public footpaths south of the cemetery. Nevertheless, it is possible to walk to the edge of Hinckley and various services and facilities in approximately 20-30 minutes.
9. Cyclists appear to use the full length of the lane for recreation purposes as part of a network of recommended and leisure routes across the borough. Commuting to Hinckley by bike is also possible. The Friends and interested

parties note that the lane is used as part of circular route for horse riders with several stables located nearby. While the Covid-19 pandemic may have increased the number of people using the lane during lockdowns, there is little evidence to support the notion that levels may decline significantly in the future. It is evident that non-motorised users use the tarmac surface of the lane wherever possible. Grass verges and passing places offer some refuge from motor traffic, although verges are generally lacking nearer to Wykin and the lane is less attractive for use in poorer weather conditions.

10. There have been no recorded accidents along the lane. Nevertheless, that does not automatically mean that the lane is safe. Evidence from interested parties suggests a number of minor incidents and near misses including a vehicle ending up in a ditch next to the lane. The lane's narrow width presents risks when motorised traffic meets another road user, particularly on stretches where visibility is poor and passing places and verges are lacking. The width falls below what would be required in terms of design guidance from Leicestershire County Council (LCC) as the local highway authority, although this applies to a new residential access road rather than an existing lane.
11. People park their cars on the lane near the cemetery entrance for funeral services and to visit graves, and also to go on countryside walks, which can result in localised congestion. The lack of street lighting adds to the risks especially when it gets dark earlier in the evening in the autumn/winter, notwithstanding vehicle lights and the ability of non-motorised users to wear high visibility clothing. There is no evidence that the lane is gritted during icy weather and there are various potholes and carriageway/verge damage. The T-junction in Wykin is not wide enough for traffic turning onto the lane if there is a vehicle waiting to exit.
12. The lane evidently has a number of existing safety issues. Whilst these are not of a magnitude that people are avoiding using it altogether, it is clear that there are significant concerns from a large number of interested parties. Experiences and perceptions of risk will vary between individuals. People will choose whether to use the lane by different modes of transport. Stoke Road provides an alternative and wider route of similar distance and duration for motor vehicles between Stoke Golding and Hinckley, although suffers from congestion around the secondary school at the start and end of the school day. It has not been demonstrated that any increase in the use of the lane would be unacceptable, but it is necessary to consider whether the development and the proposed mitigation would have an acceptable effect.

#### *The effect of the proposed development*

13. The development would generate 33 trips during either the AM or PM peak hour. The Council and appellant take differing views on whether Census journey to work or traffic count data should be used, but agree that 33 trips would result in 17 to 23 additional vehicles using the lane during these hours. This is a 20-28% increase on existing levels. Figures from the Friends' traffic consultant show a similar increase. Based on trip generation estimates and traffic count data, such percentage increases would be maintained across the day between 7am and 7pm.
14. While the increase in PM peak hour traffic would fall within the existing daily variation, it is not apparent that this would be the case at other times of the day. Thus, there would be a noticeable effect of more traffic on the lane. The

level of increase would present additional risks as there would be more occasions for all users of the lane to encounter motor vehicles. Based on the existing lane context, the potential for conflict and incidents would increase by over a quarter for pedestrians, including during evening hours. The increase in encounters would be lower for cyclists due to their average speed, but there would be limited space for motor vehicles to pass cyclists safely. Horse riders would experience similar levels of additional vehicles as pedestrians with similar difficulties to cyclists in terms of drivers being able to overtake properly. In addition to the safety implications, this could discourage non-motorised use of the lane to the detriment of sustainable travel.

15. The appellant proposes 11 new passing places and 7 improved passing places as mitigation to allow more opportunities for road users to give way to oncoming traffic. Passing places are used in many rural locations and no guidance or research has been presented to demonstrate that they are inappropriate in terms of highway safety. However, the parties dispute their effectiveness in this case. I set out my assessment in the following paragraphs.
16. The visibility between the new and existing passing places would be reasonable in most places taking into account likely speeds and the nature of the existing lane. Proposed signage to denote each location would assist with visibility and would also reduce the risk of vehicles using the passing places for car parking purposes. The visibility would allow vehicles to see and react to oncoming traffic in sufficient time. One exception is between new passing places 3 and 2 heading towards Wykin. However, visibility in the opposite direction is better and there is an informal passing place at a field entrance next to the Ambion Way public footpath. The other exception is between passing places either side of the 90 degree bend. However, traffic speeds approaching such a bend are very reduced while there is scope for southbound traffic to move to the left at the bend to avoid oncoming vehicles.
17. The new passing places would result in localised widening of the lane, but most of the existing width and bends would remain. This would require drivers to travel at an appropriate and safe speed below the national speed limit. While it is possible some drivers might try and race between signposted passing places, it is more plausible that most drivers would behave in a more rational manner, giving way to oncoming traffic where it is safe and reasonable to do so. Thus, the mitigation would not give rise to significant increases in traffic speeds. Moreover, it would not make the journey along the lane much quicker or easier to the extent that it would attract significant additional background traffic.
18. While the new passing places would reduce the extent of grass verges, they would offer non-motorised users some refuge at a level grade with dropped kerbs. Existing verge and road damage would be improved with more passing places reducing the likelihood of vehicles having to come off the tarmac surface. The passing places mitigation has been subject to a Road Safety Audit (RSA) and found to be safe. The brief for the RSA was not explicit in the need to consider non-motorised road users. However, the auditors clarified shortly before the inquiry opened that they did have regard to such users during their assessment in line with national guidance, referring to the lane as a popular and well-used route. Moreover, the RSA process requires further monitoring of the passing places once installed and remedial work could take place. Thus, I am satisfied that while the focus of the passing places is towards motorised

vehicles, they would not be unsafe, they would cater for the needs of non-motorised users, and would be an appropriate form of mitigation.

19. In terms of effects on the T-junction with Higham Lane / Wykin Road, existing survey data by the appellant reveals up to 3 vehicles queuing on the lane during morning peak hours and up to 2 vehicles queueing on Wykin Road in the morning and evening peak hours. Such queues occur in periods of less than 5 minutes indicating that they clear relatively quickly. The increased number of vehicles in the morning and evening peaks is not of a magnitude that would add significantly to queue lengths or delays. The additional traffic is also unlikely to greatly increase the risk to non-motorised users at this junction. Whilst narrow, the visibility along the lane from the T-junction is reasonable, with a passing place just beyond the narrow section. Moreover, there is a public footpath that bypasses the junction altogether for pedestrians walking to and from Hinckley.
20. As for cumulative effects, Hinckley West on the north-west edge of the town will comprise 850 homes when complete. It is a site allocation in the Hinckley and Bosworth Site Allocations and Development Management Policies DPD 2016 (SADMP) which has since gained planning permission. SADMP Policy SA2 required the provision of an appropriate strategy that reduces the impact of traffic from the development on Wykin Lane through Wykin village. The traffic statement for the approved development was based on modelling data specific to the location. It reveals little difference in traffic flows along Wykin Road from the A47 as a result of the development. It follows therefore that there would be little increase in motor vehicles using Wykin Lane to access Stoke Golding. It is possible that new residents would seek to walk or cycle for recreational purposes along the lane. However, the local footpath and cycle network is extensive and it is not certain that a large number of people would chose to use the lane.
21. The recently approved Roseway scheme on the northern side of Stoke Golding could result in some future residents using the lane to reach Hinckley. However, given the location of the Roseway site and the network of village roads, it is likely that a significant number of vehicles would go via Hinckley Road and Stoke Road. Therefore, the proposed development would not have a significant or severe cumulative effect with the approved Hinckley West and/or Roseway schemes.
22. In terms of the site access from the lane, the visibility splays shown on the detailed plan are in accordance with national and LCC guidance and would not result in extensive vegetation loss. The site access would have an impact on car parking for the cemetery, but this is an informal arrangement and funeral services are likely to only be occasional. As a consequence, I am satisfied that safe and suitable access can be provided for the development.
23. I have had regard to comments made by and about LCC as the local highway authority. I have insufficient evidence to substantiate claims that LCC are reluctant to sustain objections to applications on highway safety grounds. It is apparent that a LCC highways officer visited the site and the lane to assess the original application and that further information was sought before no objection was confirmed. This included impacts on non-motorised road users even though detailed data on such users was not available until after the application

was determined. In any case, I have reached my findings on this main issue based on the evidence before me.

24. The development would increase the amount of motor vehicles using the lane with an increased risk of conflict between such vehicles and other road users. However, through the mitigation of additional and improved passing places, negative effects would be reduced and would not be significant. The impact on the T-junction would be acceptable and there would be no significant or severe cumulative effects with the Hinckley West or Roseway schemes. The site access would also be appropriate.
25. In conclusion, the development with the proposed mitigation would have an acceptable effect on traffic movements and highway safety. Therefore, it would not conflict with SADMP Policy DM17 which seeks, amongst other things, to ensure convenient and safe access for walking and cycling to services and facilities and to avoid significant adverse impacts on highway safety. It would also follow the advice in SADMP paragraph 14.68 in terms of safe access to the highway and in ensuring that the local highway network will continue to function effectively. It would not conflict with Policies 7, 11 and 14 of the Hinckley and Bosworth Core Strategy 2009 (CS) insofar as they seek to deliver a walking/cycling route between Stoke Golding and Hinckley.
26. The development would also not conflict with paragraph 109 of the National Planning Policy Framework (NPPF) which aims to only prevent or refuse development on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. It would also not prejudice the aims of NPPF paragraph 104(d) and 110 in terms of encouraging sustainable modes of transport and minimising the scope for conflict between different road users. The development would also maintain existing cycle routes, having regard to Local Transport Note 1/20 on cycle infrastructure design.

### ***Character and appearance***

#### *The existing context*

27. The site is located just outside the Stoke Golding settlement boundary and is considered to lie within the countryside as set out by SADMP Policy DM4. This policy seeks to protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Development will be considered sustainable where it meets one of 5 exceptions in criteria (a) to (e) and complies with provisions in criteria (i) to (v), including the avoidance of significant adverse effects on the countryside. None of the 5 exceptions are applicable to this development.
28. In the Hinckley and Bosworth Borough Landscape Character Assessment, the site lies within Landscape Character Area E: Stoke Golding Rolling Farmland. This includes the area between the village and the northern edge of Hinckley. Its characteristics include small to medium scale rectilinear field patterns, rural settlements with historic cores, modern outskirts and sporadic farmsteads on the edges within a strong rural setting, and connecting rural lanes with grass verges and well-maintained hedgerows. The site adjoins Urban Character Area 11: Stoke Golding, where reference is made to development on the edge of the village gradually decreasing in density with individual farmsteads creating a

sensitive transition to the countryside. Key sensitivities include the village's rural setting and visual links to the surrounding countryside.

29. The site is an irregular shaped grass field. To the north are existing residential properties on Arnold Road, Stoneley Road and Wykin Lane as well as the village recreation ground. A solar farm is located to the north-east, the new cemetery and amenity space to the west, and the paddock and buildings of Willow Farm to the south. Beyond these features are a network of agricultural fields and public footpaths. There are mature trees and hedgerows along the lane and recreation ground boundaries. The boundaries with the properties to the north and the field to the east are much more open.
30. Along the lane boundary (both from the road and the cemetery entrance) and immediately to the north and south, it is possible to see glimpses of the site through gaps between trees. This is particularly the case during winter months, with the existing properties to the north also visible in the background. The site quickly becomes hidden by vegetation further south on the lane and also from two public footpaths running west from the lane to the south of the cemetery. From public viewpoints further south and east, the site is hard to discern against the existing settlement edge and is often screened by vegetation and the general landform. This includes the view from Compass Field Farm on the lane as identified by SGNP Policy SG10.
31. From the recreation ground, it is possible to see glimpses of the site between gaps in trees, with the roofline of Willow Farm visible even in summer months. From Hinckley Road to the north-east, the site is harder to pick out across an intervening field and the solar farm. From the southern end of Arnold Road, the site appears in a gap between two properties albeit screened by planting. Due to the lack of tall boundary screening, there are clear views across the site from private locations within the ground and first floor rear elevations and rear gardens of up to 15 properties on Arnold Road, Stoneley Road and Wykin Lane.
32. The existing site as a small to medium sized field adjacent to a rural lane forms part of the transition from village to countryside. The proximity and visibility of residential properties to the north exerts an urbanising influence particularly within the site. Conversely, the recreation ground, solar farm and cemetery can only be glimpsed from within the site and so there remains a wider rural setting. Along the lane boundary, the site is experienced against the backdrop of the cemetery and existing housing on the village edge although it clearly marks the start of the countryside. The site is well-contained and screened by boundary planting along the lane and from public footpaths both nearby and further afield, as well as from the recreation ground. There are no public footpaths across the site or any other form of public recreation provision.
33. The site makes a limited contribution in terms of the wider landscape character area due to its size, location and screening. However, in terms of the site itself and its immediate context, the landscape value, susceptibility and sensitivity is of a medium level due to the above considerations. While I concur with the Council and appellant that the site and surrounding area do not comprise a valued landscape for the purposes of NPPF paragraph 170(a), it is evident that they are valued by local residents including as part of recreational routes from the village to the countryside. In visual terms, the site can only be seen in glimpses along or near to the boundary apart from in private viewpoints. Thus,

I consider the existing site makes a moderate positive contribution to the character and appearance of the countryside.

34. The lane beyond the village edge has a rural character and appearance as a tarmac road flanked by grass verges, fields, trees, hedgerows, and occasional properties and farms. Existing passing places comprise tarmac and/or loose gravel but have a low visual impact. Damage to verges and potholes as a result of traffic is unfortunate and in places is somewhat unsightly.

*The effect of the proposed development*

35. The illustrative masterplan gives an indication of the potential internal layout, routes and landscaping that could be provided with the development at the reserved matters stage. The design and access statement refers to 2 storey properties with focal buildings in key locations. The access point onto the lane is fixed as part of the outline application and would result in around 13-15m of boundary vegetation being removed diagonally opposite the cemetery entrance.
36. Regardless of the details at reserved matters stage, the change from an undeveloped grass field to a residential development of up to 55 homes would represent a fundamental change to the character and appearance of the site itself. The urban edge of Stoke Golding would extend southwards unlike the 1980s cul-de-sacs of Arnold and Stoneley Roads which were built to the east of 1930s housing on Wykin Lane rather than to the south. The housing would be located between the cemetery and the recreation ground. However, it would not coalesce with either of these adjoining land uses due to the extent of vegetation screening. Similarly, the buffer provided by the paddock at Willow Farm would prevent coalescence with the existing farm buildings. Willow Farm would be less isolated but would remain an individual farmstead on the edge of the village.
37. With the exception of the site access, it is intended that the boundary vegetation along the lane would be retained and enhanced. Planting would also be strengthened along other boundaries. No detailed landscape mitigation scheme exists at present due to the outline nature of the proposal. However, I am satisfied that sufficient mitigation could be secured as part of the reserved matters stage. The development would be well-contained and seen against the context of the village settlement edge. While the magnitude of impact at site level would be high due to the change from field to residential, the impact on wider landscape character would be low. Therefore, the significance of landscape effect would be no greater than moderate adverse.
38. In terms of visual effects, it is likely that the tops of properties would be seen in close-up views along the lane boundary including from the village edge, the cemetery entrance, and near to Willow Farm, especially in winter months. There would also be similar views from the start of the footpaths to the south of the cemetery. However, such views would be glimpses based on the retention and enhancement of planting. The site access would be a relatively short section of the boundary and properties could be set back behind landscaping to reduce the negative effect. The visibility of properties from the recreation ground would also be likely to be limited based on boundary planting. From all of these viewpoints by Year 15, I consider the adverse visual impact would be no greater than moderate. From public viewpoints further away to the south and east, including by Compass Field Farm, the development

would be much less visible and so the adverse impacts would be negligible to minor at worst.

39. The development would be highly visible from the rear elevations and gardens of adjoining properties to the north. This would result in major adverse effects in terms of private views. However, the planning system is largely concerned with land use in the public interest rather than the protection of purely private interests such as private views. It is likely that significant negative effects on the living conditions of existing occupiers in terms of matters such as outlook, light and privacy can be avoided through the detailed designs at the reserved matters stage. Therefore, I only give moderate weight to these adverse effects.
40. The introduction of additional and improved passing places along the lane would increase the lane's width at various points, with tarmac and dropped kerb edgings replacing section of loose gravel and grass verges. However, much of the lane would remain single width and the additional tarmac would have a limited visual impact. Passing place signs would be more visible given their intended purpose, but their height, size and number would not be excessive or greatly detract from the lane's rural character. Existing areas of loose gravel and potholes could be removed where they coincide with a passing place. No formal landscape and visual impact assessment has been carried out for the passing places works. Nevertheless, I am satisfied that the works would have no more than a minor negative effect and that the lane would retain a rural character and appearance.
41. In conclusion, the development would have a negative effect on the character and appearance of the countryside and so would conflict with SADMP Policy DM4. However, the negative effect would be no greater than a moderate adverse impact for the reasons set out above. Given that issues relating to the living conditions of nearby residents and the detailed design can be addressed at the reserved matters stage, the development would not conflict with SADMP Policy DM10, criteria (b) and (c) in particular.

### ***Local infrastructure***

42. Stoke Golding is designated as a Key Rural Centre in the CS based on the services and facilities set out in CS paragraph 4.31. The post office closed in 2017, but all of the other services and facilities remain. The local shop is a small newsagent/corner shop but it still meets basic day to day retail needs and is open throughout much of the week.
43. The primary school is oversubscribed with more children on the roll (226) than the net capacity (208). Prospective pupils within the catchment area are not guaranteed a place at the school. LCC's Children and Family Services forecast that the development would generate 17 new pupils and an overall deficit of 29 places if also accounting for demographic changes. While the school has limited room to expand outwards without affecting its playing field or playground, LCC has confirmed that there is non-teaching space that could be adapted to provide additional teaching accommodation. The S106 would provide a financial contribution towards the improvement, remodelling or enhancement of facilities at the school or any other school within the locality. It is unfortunate that some children may still need to travel to school outside the village. Nevertheless, I consider the development would have an acceptable effect in terms of primary school provision.

44. The secondary school is a faith school with an admissions policy based largely on religious rather than geographic criteria. As such, fewer children from Stoke Golding attend the school than might be expected. The nearest other secondary schools are in Hinckley where there is an overall surplus of places forecast. A school bus runs from the village to Redmoor Academy with pupils charged £500 per annum for the service. The cost may be prohibitive for some families, but it provides a reasonable alternative to daily car journeys. Thus, the effect of the development on secondary school provision is also acceptable.
45. It is apparent that both of the village schools generate congestion and parking issues at the start and end of the school day. Given that the development would be within walking and cycling distance of both schools, it is unlikely to add significantly to this existing situation.
46. The village surgery is a branch of Hinckley Castle Mead Practice and dispenses medicines to over 1700 patients. There is no full-time resident doctor and a limited number of surgeries per week. Patient numbers have increased significantly in recent years and the ratio of patients to doctor exceeds national/local averages and recommendations. The surgery building is small with very limited scope to expand outwards. However, the West Leicestershire Clinical Commissioning Group (WLCCG) has indicated that the clinical rooms could be refurbished to enable them to become multi-functional treatment rooms. This would allow an increase in the number and type of appointments and services to accommodate the development. The S106 would provide a financial contribution towards the provision and/or improvement of surgery facilities in line with WLCCG's request. Therefore, the development would have an acceptable effect on surgery provision.
47. In terms of community and leisure facilities, the village hall is popular in terms of bookings while the surrounding recreation ground contains children's play equipment and sports pitches. Both require maintenance and improvements with the recreation ground below the quality levels expected by the Council. The development would make a financial contribution via the S106 towards the provision and maintenance of various open space facilities. There is little evidence to show that the development would worsen the provision of community and leisure facilities and so its effect would be acceptable.
48. The bus service between Hinckley and Nuneaton runs approximately once an hour between early morning and early evening Monday to Friday and at a similar frequency mid-morning to early evening on Saturdays. CS paragraph 4.31 does not envisage a greater level of bus service for Key Rural Centres. The service allows people to access shops, employment and educational facilities in the two towns with journey times of around 20-30 minutes. Thus, it would provide future occupants of the development with a realistic alternative to the private car and help reduce traffic and congestion on local roads.
49. Employment opportunities within Stoke Golding are restricted and there are no leases currently available at the industrial estate. The village ranks towards the bottom of Leicestershire settlements in terms of its economic profile. However, this is in comparison to larger villages and towns across the county and the village's profile is not dissimilar to some of the other Key Rural Centres within the borough. While the lack of local employment would result in occupants of the development needing to travel beyond the village for work, Hinckley is a short journey away and there is the option to travel by non-car modes. Thus,

the development would have an acceptable effect having regard to employment provision.

50. Wykin Lane can be described as a recreational resource in its own right, given its popularity with cyclists, walkers and horse riders. For the reasons set out above under the first main issue, the development would not have an unacceptable impact on this resource. The tranquil qualities of the cemetery would be affected during the construction phase, but the hours and nature of works can be controlled by conditions. This phase would also be time-limited.
51. Concluding on this main issue, the development would have an acceptable effect on local infrastructure provision having regard to the level of existing services and facilities and the contributions set out in the S106.

### ***Housing land supply***

#### *Overview and approach*

52. The Council's position on whether it can demonstrate a 5 year supply of deliverable housing sites has fluctuated throughout the course of this appeal. Towards the end of the inquiry, the Council conceded that, for the purposes of this appeal, it could not demonstrate a 5 year supply. However, the appellant and Council continue to disagree on the extent of the shortfall in terms of the deliverability of 5 specific sites. With the annual housing requirement rounded up to 473 dwellings per annum (dpa), the shortfall would be 467 dwellings based on the appellant's position or 85 dwellings based on the Council's position. This equates to around 4.01 or 4.82 years' worth of supply respectively with a base date of 1 April 2020.
53. There were two other sites discussed at the inquiry where the Council has revised the 5 year delivery rate. For Westfield Farm on Keats Lane, the Council has reduced the delivery of housing to from 60dpa to 40dpa based on evidence from the developer. This results in 122 fewer dwellings. For Springfield Riding School on Groby Road, the Council now considers an additional 27 dwellings will be delivered in the 5 year period based on an updated trajectory from the developer. The appellant did not dispute either site and I have no reason to disagree with the revised figures. These revisions have been factored in the parties' respective positions on the shortfall outlined above.

#### *Disputed sites*

54. *Land north of Triumph Motorcycles (Hinckley West)*. Phase 1 of this large site has detailed planning permission for 260 homes. The Council's build-out rate of 60dpa is based on evidence from the developer. The site is under construction, key parts of the road infrastructure are largely in place, and the first completions are expected in July 2021. While the Council normally applies a build-out rate of 47dpa for sites over 100 dwellings, this is an estimate for the purposes of assessing potential available housing sites. More specific detailed information can be utilised instead where available. There is no clear evidence that 60dpa would not be achieved between 2021/22 and 2024/25 and so I agree with the Council that 240 homes can be included in the 5 year supply.
55. *Sedgemere, Station Road, Market Bosworth*. This site has an extant full planning permission for 57 dwellings and site works have commenced. An application for 73 dwellings is currently being considered by the Council with a decision expected in June 2021. Pre-application discussions have sought to

resolve 6 reasons for refusal relating to a previous application in 2020. While there is some uncertainty as to whether the current application will be approved, the site continues to benefit from detailed planning permission and the developer is looking to start building homes as soon as possible. Therefore, there is a realistic prospect and clear evidence that at least 57 dwellings would be delivered within the 5 year period.

56. *Trinity Marina, Coventry Road*. This site benefits from outline planning permission that includes up to 74 dwellings. A letter from the developer indicates a reserved matters application and approval in summer/autumn 2021 with construction starting in 2022 and completion in 2024. The only reserved matter left relates to appearance with little indication that approval would not be forthcoming. The sale of the site is required before matters can progress and this has been hampered by the pandemic. This has led to the Council pushing the delivery of housing back to 2023/24 and 2024/2025. However, a firm offer has been received and negotiations continue with little evidence that a sale would not be agreed this year. Therefore, there is a realistic prospect and clear evidence that 74 dwellings would be delivered within the 5 year period.
57. *Land south of Station Road and Heath Road, Market Bosworth*. This site is allocated in both the SADMP and the Market Bosworth Neighbourhood Plan. A masterplan is due to be adopted in June 2021 and the Council contends that access issues are capable of being resolved. However, I have little information on progress towards the submission of a planning application. While this is partly due to commercial sensitivities, this does not justify the lack of clear evidence regarding the deliverability of 100 dwellings within the 5 year period. Therefore, this figure and the site as a whole should be deleted from the Council's 5 year housing supply.
58. *Garden Farm, Bagworth Road, Barlestone*. This site is allocated in the SADMP and previously had outline planning permission for 64 dwellings. The Council now considers that 99 dwellings can be delivered based on a new planning application due to be determined shortly. There is some uncertainty as to whether the application will be approved, but the previous permission and existing allocation indicates a realistic prospect of deliverability. Moreover, as a 100% affordable housing scheme with grant funding, there are set contractual timescales to be met. Therefore, clear evidence exists for the delivery of 99 dwellings within the 5 year period.

#### *Conclusion on housing land supply*

59. It is already accepted that the Council cannot demonstrate a 5 year supply of deliverable housing sites. Removing 100 dwellings from the Council's 5 year housing supply would result in a shortfall of 185 dwellings and a 5 year supply figure of around 4.6 years. The implications of the shortfall will be considered as part of the planning balance below.

#### **Other matters**

60. Various potential housing sites around Stoke Golding have come forward in recent years as part of the Council's Strategic Housing and Employment Land Availability Assessment (SHELAA). However, this document forms part of the evidence base for the emerging new Local Plan and does not mean that each site would or should be developed. Further assessment of the planning merits

of each site would need to take place before any could be allocated or developed. I am aware that a planning application for 70 homes on a site south of Hinckley Road has recently been submitted to the Council. However, this application has yet to be determined and so does not affect my overall decision.

61. In the SHELAA, the appeal site forms part of a wider site that extends further south along Wykin Lane. The Friends and interested parties refer to the possibility of the number of houses doubling or trebling across a greater area, pointing to the illustrative masterplan where the primary street ends at the boundary with the next field. While there has been initial assessment work and inquiries relating to a larger development, I can only deal with the proposal and evidence before me. Any alternative scheme would require a separate planning application that would need to properly address a wide range of issues. Therefore, granting planning permission for this appeal would not set a precedent for further development on a wider Wykin Lane site or any other site around the village.
62. Stoke Golding has a number of heritage assets including listed buildings, two conservation areas, a scheduled monument, and part of the registered battlefield associated with the Battle of Bosworth, all of which attract visitors to the area. However, the site is sufficiently distant from these heritage assets and so the development would not have an adverse effect on their setting or significance. Wykin Lane appears to be a historic drovers' route dating back several centuries. However, it is already used by motor vehicles while the extent of proposed mitigation works to the lane are limited. Thus, the development is unlikely to negatively affect any features of archaeological or historic interest.
63. The existing site contains habitat features that can support protected species such as great crested newts (GCN), bats, birds and badgers. Survey work indicates the presence of GCN in the surrounding area. The proposed mitigation seeks 4.5m uncut buffers to hedgerows to allow connectivity for GCN around the site. This can be secured via condition, along with updated badger and GCN surveys and an overall biodiversity management plan to address all relevant protected species. As a consequence, the development should avoid negative effects on biodiversity matters.
64. There is an area of low surface water flood risk towards the north-east corner of the site. The reduction in permeable surfaces as a result of the development could increase the risk of such flooding within the site and surrounding area. Interested parties refer to flooding incidents such as in front of the cemetery. The proposed surface water drainage would include an attenuation pond that discharges to the adjacent watercourse. There are capacity issues with the foul sewer network and so an on-site pumping station would be necessary along with modelling work to be agreed with Severn Trent. On this basis, the development would have an acceptable effect on flooding and drainage.
65. Concerns relating to construction effects, including noise and dust pollution and the routing of traffic, can be controlled via condition. While it would appear that there has been an increase in crime across the village in recent years, there is insufficient evidence to link this to additional new housing. There would be a loss of agricultural land, but the site is not of a particularly high grade and much agricultural land around Stoke Golding would remain. Thus, it would only

represent a minor negative effect. The site is within a few kilometres of Stoke Golding Airfield but I have no evidence that shows the development would affect its operation. I am satisfied that the development would not compromise the use of the adjoining recreation ground given the vegetation buffer. The effect on property values is not a planning matter.

### ***Planning obligations***

66. The S106 agreement covers a number of planning obligations that are required by development plan policies including SADMP Policy DM3 which seeks the provision and delivery of infrastructure. The S106 would secure 40% affordable housing provision and a tenure split in accordance with CS Policy 15. It would ensure Travel Packs and bus passes are made available to the first occupants of each new dwelling to encourage sustainable modes of transport. It would provide a financial contribution towards maintaining household waste management facilities and capacity. It would also provide a financial contribution towards library facilities in Hinckley to address the increase in the catchment population.
67. As noted above, the S106 would make a financial contribution towards off-site open space with the focus on providing and maintaining specific facilities at the adjoining recreation ground. It would also ensure the provision and maintenance of open space within the development. Both elements would be in accordance with CS Policies 11 and 19 which seek open space improvements in Stoke Golding and across the borough.
68. The S106 would make financial contributions towards education and health facilities as discussed above. The figures are based on calculations set out by LCC and WLCCG informed by the likely number of people generated by the development. The health facilities contribution would be made prior to the commencement of development while the education contribution would be staggered but nevertheless paid in full before 40% of the dwellings are first occupied. Similar to some of the other contributions, they would need to be spent within 5 years of them being received by the relevant authority.
69. Given the policy requirements and the infrastructure needs arising from the development, I am satisfied that all of the above obligations are necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. They would accord with Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). Therefore, I can take all of the S106 obligations into account as part of my decision.

### **The planning balance**

#### ***Emerging development plan***

70. Preparation of the Stoke Golding Neighbourhood Plan (SGNP) commenced in 2015 and has been subject to various stages of public consultation. The SGNP submission version has been sent to the Council for legal checks prior to further public consultation. An examination and referendum would follow the consultation before the SGNP could be formally made.
71. The SGNP submission version has been amended following the Council's decision to approve 65 dwellings on land east of Roseway. A reserve site for around 25 dwellings on land at Stokesfield Farm has been removed while the

only housing allocation at Mulberry Farm is now a reserve site for around 25 dwellings. The latter site is a brownfield site within the village conservation area containing derelict farm buildings. It is identified as an improvement area in the conservation area appraisal and its redevelopment is generally supported locally over the use of greenfield sites. The Roseway and Mulberry Farm sites would provide 30 years of housing supply for Stoke Golding based on the rate set out for the village in the CS.

72. Concerns have been expressed that allowing this appeal would undermine the SGNP by overproviding housing on greenfield sites and would result in the removal of the Mulberry Farm site. However, the housing requirement figure in the SGNP is expressed as a minimum of 57 dwellings. It is based on minimum numbers derived from the CS which are dated and under review as part of the emerging new Local Plan. Therefore, there is no reason in principle why the Mulberry Farm site could not remain in the SGNP and come forward as a housing scheme. The SGNP makes allowance for windfall housing proposals and contains a range of policies to guide various types of development.
73. The SGNP still has some way to go in terms of its preparation and there are unresolved objections to the plan. Therefore, I concur with the parties that limited weight can be afforded to the SGNP and any conflict with it. Nevertheless, and having had regard to NPPF paragraphs 48-50, I am content that allowing this appeal would not undermine the SGNP to the extent that it could not progress to become an important part of the development plan for Stoke Golding.
74. The emerging new Local Plan was subject to a public consultation in early 2019 on directions for growth. This focused on potential revisions to the spatial strategy set out in the CS including to the north-west of Hinckley. However, the next public consultation is not expected before summer 2021 and the examination and adoption of the plan is not likely for some time yet. Therefore, the plan can only be attributed very limited weight at this stage.

*The application of NPPF paragraph 11(d)*

75. The NPPF sets out a presumption in favour of sustainable development. Paragraph 11(d) states that where there are no relevant policies, or the policies which are most important for determining the application are out of date, planning permission should be granted unless one of two exceptions apply. The first is not applicable to this appeal as there are no areas or assets of particular importance affected (such as designated heritage assets). The second exception states that any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole (also known as the tilted balance).
76. The lack of a 5 year supply of deliverable housing sites alone triggers the tilted balance in paragraph 11(d). The Council and appellant accept that the balance is also triggered due to most important policies being out of date. However, the parties differ in terms of which policies qualify as most important, the reasons for some of these policies being out of date, and the weight to be given to the policies and any conflict with them.
77. The parties agree that CS Policies 7 and 11 and SADMP Policies DM4 and DM17 are most important policies for the purposes of this appeal. CS Policy 15 deals with affordable housing provision and SADMP Policy DM1 reflects the

presumption in favour of sustainable development in the 2012 version of the NPPF. Both are very relevant to this appeal and so I concur with the Council that they can be regarded as most important policies too. CS Policy 17 relates to small scale developments only and so is not applicable to this appeal.

78. CS Policies 7 and 11 set out the spatial strategy and policies for Key Rural Centres. Amongst other things, CS Policy 7 supports housing development within settlement boundaries. CS Policy 11 sets a housing requirement of a minimum of 60 new homes for Stoke Golding, with developers required to show that the number, type and mix of housing proposed meets the needs of Stoke Golding taking into account the latest evidence.
79. The CS housing requirement figures are derived from the now revoked East Midlands Regional Spatial Strategy which set a target of 450dpa. The Council accepts that the two policies are out of date due to more up to date assessment of housing requirement via the government's Standard Methodology (SM). While the latest SM data reveals a local housing need of 450dpa, the Council acknowledges that this figure is a starting point for assessing the housing requirement rather than the end point as exists in the CS. Thus, it is recognised that CS Policies 7 and 11 are out of date. However, the appellant and Council disagree that the policies are also out of date due to the application of the CS spatial strategy and settlement boundaries.
80. The CS requires just over 5,000 new dwellings to be delivered between 2009 and 2026. The spatial strategy focuses on two sustainable urban extensions (SUE) of 2,000 dwellings at Earl Shilton and 2,500 dwellings at Barwell with 4,120 to be built by 2026. To date, no dwelling has been delivered in either location with none forecast to be delivered before 2026.
81. Despite the lack of progress with the SUEs, it is evident that the Council has continued to deliver new housing within settlement boundaries and on site allocations. There has been no significant under-delivery of housing in terms of the housing delivery test. However, it is also apparent that planning permission has been granted for sites outside of settlement boundaries even where minimum CS housing figures for settlements have been exceeded. This includes the Roseway site in Stoke Golding and two sites in Desford. The reasons for these permissions vary but has included situations where the tilted balance applied such as at Roseway.
82. There remains a need for development to be sustainable, while settlement boundaries continue to be an important tool to guide development even if they are somewhat dated or under review. Nevertheless, these permissions are an indication that the spatial strategy and settlement boundaries in the borough have been applied in a flexible rather than a rigid way due to specific circumstances. Therefore, this provides an additional reason to state that CS Policies 7 and 11 are out of date. As such, I consider only moderate weight can be afforded to CS Policies 7 and 11 and any conflict with them insofar as they seek housing development within settlement boundaries and set housing targets for Stoke Golding.
83. Affordable housing targets in CS Policy CS15 are based on figures that have since been updated. Thus, it can be regarded as out of date in a similar way to CS Policies 7 and 11. However, as it seeks to secure the provision of affordable housing it can still be afforded significant weight. SADMP Policies DM1 and DM17 are broadly consistent with the NPPF on their respective topics. There

are no other reasons to indicate they are out of date or that they carry reduced weight.

84. To the extent that SADMP Policy DM4 seeks to implement the CS through its approach to the countryside and settlement boundaries, it is also out of date. In terms of weight, the emphasis of the policy is to promote sustainable development in the countryside and protect it from unsustainable proposals. In that regard, there is broad compliance with the NPPF including paragraph 170(b) and so the policy can be afforded significant weight. Market housing schemes such as this appeal are automatically in conflict with the policy as they do not fall within the exceptions in (a) to (e). Nevertheless, it is for the decision maker to consider how much weight to give to the conflict based on the effect of the development on the countryside. In this instance, I have found that the negative effects would be no greater than moderate. Therefore, I attribute no more than moderate weight to the conflict with Policy DM4.
85. Taken as a whole, the policies most important for this decision can be regarded as being out of date for a number of reasons. This finding, along with my assessment of the weight to be attributed to each policy and any conflict with it, can be taken forward into the application of the tilted balance.
86. The parties agree that the economic benefits arising from the construction of the development and subsequent investment in the local economy carry moderate weight in favour of the scheme even if they are generic benefits. Environmental benefits comprise additional planting and biodiversity improvements within the site including enhancements to GCN habitats. These benefits carry moderate weight.
87. Social benefits comprise the provision of market and affordable housing. In terms of the former, there is no 5 year housing land supply and I have found the deficit is more than marginal at over 180 homes. While there has been no significant under-delivery of housing, the most recent housing delivery test measurement of 92% requires the Council to produce an action plan to increase delivery. The fact that the annual housing requirement figure in the latest SM data matches the CS does not temper the weight given to market housing, particularly when the SM figure is a starting point and the CS figure an out of date end point.
88. Stoke Golding has exceeded the minimum housing requirement by more than 3 times the amount set out in CS Policy 11 while the Roseway development alone would exceed the minimum figure set out in the submission SGNP. However, these figures are minimums and are based on CS figures which are acknowledged to be out of date. Taking the above into account, I consider significant weight can be afforded to the provision of market housing to address the shortfall.
89. As for affordable housing, CS Policy 15 requires 2,090 homes to be delivered over the 20 year plan period. While annualised targets are not used by the CS, this averages out at around 105 per year. So far, an average of 92 affordable homes per year have been delivered although the Council provides evidence not challenged by the appellant that it is on course to exceed the CS target by over 50 homes by 2026. Nevertheless, recent research carried out to inform the emerging Local Plan reveals a need of 271 homes per year while there are a significant number of people on the Council's housing register. The need is greater in urban locations like Hinckley, but it can be met in any part of the

borough. The development would deliver 40% affordable housing in accordance with CS Policy 15. This would equate to 22 homes if 55 are built in total. In light of the above, this represents a significant benefit.

90. The provision of additional passing places is primarily aimed at mitigating the effects of the development even though they will be of some assistance to existing users of the lane. Thus, I attribute very little weight to them as a benefit of the development.
91. In terms of adverse impacts, the development would have a negative effect on the character and appearance of the countryside and so would conflict with SADMP Policy DM4. However, for the reasons expressed above, I afford only moderate weight to the negative effects and the policy conflict. The development would be located beyond the settlement boundary and would be contrary to CS Policies 7 and 11 but I only give moderate weight to that conflict. It would not accord with the submission SGNP but neither would it undermine it and so this conflict carries limited weight. There would be no conflict with the emerging Local Plan. There would be a minor negative effect in terms of the loss of agricultural land. The development would have an acceptable effect on traffic movements and highway safety in line with SADMP Policy DM17 and an acceptable effect on local infrastructure provision.
92. The adverse impacts of the development carry no more than moderate weight and so would not significantly and demonstrably outweigh the benefits when assessed against the NPPF policies taken as a whole. As such, the presumption in favour of sustainable development would apply in line with NPPF paragraph 11 and SADMP Policy DM1.
93. There has been significant public interest in this appeal and many opponents of the development. The Friends and interested parties have eloquently set out their concerns and evidence, providing invaluable local insight. However, I have carefully considered the planning evidence and arguments for and against the development. On this occasion, they weigh in favour of granting planning permission.
94. Concluding on the planning balance, while the development would conflict with CS Policies 7 and 11 and SADMP Policy DM4, there are sufficient material considerations to indicate that permission should be granted.

### **Conditions**

95. Condition 1 applies shorter timescales for the submission of reserved matters applications and the commencement of development as part of the Council's action plan to speed up the delivery of housing in light of the current supply position. Condition 2 sets out the details of what is required to be submitted at the reserved matters stage, all of which is necessary including information on the housing mix. Condition 3 is necessary to ensure that details of internal access and circulation routes are provided, as the approved plans only relate to the access point onto Wykin Lane and the masterplan is only illustrative. Conditions 2 and 3 are pre-commencement as it is important to approve all of these details as part of the overall scheme. Conditions 4 and 5 are necessary to clarify the approved plans and ensure the provision of the access point.
96. Conditions 6 and 7 are necessary to ensure that the construction phase has an acceptable effect on local residents. Condition 6 is pre-commencement to

ensure the details are agreed before works begin on site. Conditions 8 and 9 are necessary to ensure that any land contamination matters are properly addressed. Condition 8 is pre-commencement as it is necessary to understand contamination risks at an early stage.

97. Conditions 10, 11 and 12 are necessary to address matters relating to flood risk and drainage at construction and occupation stages. Conditions 10 and 11 are pre-commencement as drainage details need to be established early on. Condition 13 is necessary to ensure that the development has a satisfactory appearance and is pre-commencement to ensure existing ground levels are confirmed before groundworks begin.
98. Conditions 14 to 18 are necessary in the interests of biodiversity and landscape character. Condition 14 is pre-commencement to ensure that the protection and enhancement of species and habitats is factored into the development from the outset. An updated badger survey in Condition 15 is necessary to ensure that no new setts have been established since the original survey work.
99. Conditions 19 and 20 are necessary to make the development acceptable in terms of traffic movements and highway safety along Wykin/Stoke Lane. Condition 19 requires further details on improvements to existing passing places while Condition 20 requires the implementation of the new passing places that will be subject to a separate Section 278 process with LCC. I am satisfied that both conditions would secure the necessary work and the work would be completed within an appropriate timeframe.
100. Condition 21 is needed to ensure the adequate provision of bin storage while Condition 22 is necessary to ensure occupants are informed about sustainable waste management. Condition 23 is required to ensure that external lighting is appropriate to the local area while Condition 24 is necessary to ensure the provision of communications infrastructure.

### **Conclusion**

101. For the above reasons, and having had regard to all other matters raised, the appeal is allowed.

*Tom Gilbert-Wooldridge*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT**

Thea Osmund-Smith of Counsel, instructed by Christopher May of Pegasus Group

She called:

David Cummins BEng (Hons) MSc CEng MCIHT MCILT  
Director, ADC Infrastructure

Katie Machin BSc PG Dip LA CMLI  
Associate Landscape Architect, Pegasus Group

Christopher May BA (Hons) MRTPI  
Director, Pegasus Group

Ben Cook  
Principal Planner, Pegasus Group

### **FOR THE COUNCIL**

Leanne Buckley-Thomson of Council, instructed by Mr Rice of Hinckley and Bosworth Borough Council (HBBC)

She called:

Atholl Noon MRPTI MCILT  
Director, Markides Associates Ltd

Ian Spindler BA (Hons) PG Dip LA CMLI  
Principal Landscape Architect, Crestwood Environmental Ltd

Andrew Gray MSc TP MSc UP&R MRTPI MIED  
Associate Planning Director, Aitchison Raffety

Helen Nightingale MRTPI  
Principal Planning Officer, HBBC

Jenny Brader MSc  
Senior Planning Officer, HBBC

### **FOR THE FRIENDS OF THE COMMUNITY: STOKE GOLDING (the Friends)**

Steve Martin of the Friends

He called:

Ross Lockett  
Local resident and member of the Friends

Diane Sinclair  
Local resident and member of the Friends

Mervyn Ward  
Chairman of Stoke Golding's Neighbourhood Plan Advisory Committee

## INTERESTED PERSONS WHO SPOKE AT THE INQUIRY

Cllr Jonathan Collett	Borough Councillor
Cllr David Cope	Borough Councillor
Cllr Andy Furlong FRCS MCIPR	Borough Councillor
Cllr David Bill MBE	County and Borough Councillor
Cllr Ivan Ould OBE	County Councillor
Cllr Linda Mayne	Parish Councillor
Cllr Rachel Terheege	Parish Councillor
Katie Elliott	Local resident
Tracey Chadwick	Local resident
William Sinclair	Local resident
Karen Jones	Local resident
Jacquelyn Jones	Local resident
Robert Crowfoot	Local resident
Andrew Parton	Local resident
Alan White	Local resident
Andrew Clover	Local resident
Nick Robinson	Local resident
Anne Wigley	Local resident
Annabel Del Gesso	Local resident
Julie Butterworth	Local resident
Karen Hardy	Local resident

## INQUIRY DOCUMENTS

- ID1 Appellant's opening statement
- ID2 Council's opening statement
- ID3 The Friends' opening statement
- ID4 Written representation by Jamie McQuade (local resident)
- ID5 Appellant's response to the brief for the passing places road safety audit
- ID6 GG119 Road Safety Audit guidance
- ID7 Stoke Golding Neighbourhood Plan Submission version
- ID8 Amendment to the Friends' Statement of Case as a result of ID7
- ID9 (a) Leicestershire Rural Evidence Base 2018; (b) Leicestershire Rural Economy Evidence Base 2014
- ID10 Facebook posts on the Stoke Golding Community Page (1 and 2 April 2021)
- ID11 Written representation by Sheepy Parish Council

- ID12 Email confirmation of the Local Highway Authority's site visit
- ID13 Statement of Mervyn Ward
- ID14 CD109 Highway Link Design guidance
- ID15 Statements of interested parties<sup>1</sup> (a) Alan White (b) Tracey Chadwick (c) Andrew Clover (d) Cllr Bill (e) Malcolm Lockett (f) Robert Crowfoot (g) Cllr Furlong (h) Annabel Del Gesso (i) Jacquelyn Jones (k) William Sinclair (l) Cllr Terheege (m) Nick Robinson (n) Katie Elliott (o) Karen Hardy (p) Julie Butterworth (q) Anne Wigley (r) Andrew Parton (s) local resident
- ID16 Consultations responses to original application (December 2019) from West Leicestershire Clinical Commissioning Group and Leicestershire County Council's Children and Family Services
- ID17 Updated responses from Ms Sinclair to questions from the Inspector
- ID18 Supplementary note on five-year housing land supply from the appellant and the Council
- ID19 Revised large housing sites spreadsheet
- ID20 Revised small housing sites spreadsheet
- ID21 Scott schedule from appellant and the Council regarding housing land supply
- ID22 Emails between the Council and Bloor Homes regarding Hinckley West
- ID23 Heritage Addendum note from appellant in response to ID15(e)
- ID24 Response from the appellant and the Council to the Inspector's questions on draft planning conditions and obligations
- ID25 Amended Community Infrastructure Levy Compliance Statement
- ID26 Signed and undated Section 106 agreement
- ID27 The Friends' closing submissions
- ID28 Council's closing submissions
- ID29 Appellant's closing submissions
- ID30 Appellant's reply to the closing submissions of the Friends and the Council

## **DOCUMENT RECEIVED AFTER INQUIRY CLOSED**

1. Completed and executed Section 106 agreement

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<sup>1</sup> No ID15(j) exists as this was missed off in the numbering

## **SCHEDULE OF CONDITIONS (24)**

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission and the development shall be begun not later than one year from the date of approval of the last of the reserved matters to be approved.
- 2) No development shall commence until plans and particulars of the reserved matters relating to:
  - (a) the appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes; and
  - (b) the landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges; and
  - (c) the layout of the site including, the location of electric vehicle charging points, the way in which buildings, routes and open spaces are provided, the housing mix, and the relationship of these buildings and spaces outside the development. This should include a design statement that sets out how consideration has been given to lower density to edges of site and higher density along main routes; and
  - (d) the scale of each building proposed in relation to its surroundings have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 3) No development shall commence until plans and particulars of the accessibility within the site, circulation routes, and how these fit into the surrounding access network have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: P18\_2922-001-1 Rev B and ADC2042-DR-002 Rev P4.
- 5) No part of the development hereby permitted shall be occupied until the access arrangements shown on plan ADC2042-DR-002 Rev P4 have been implemented in full.
- 6) No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination. The plan shall detail how such controls will be monitored and how construction traffic will be routed. The plan will provide a procedure for the investigation of complaints. The approved details shall be implemented throughout the course of the development.

- 7) Construction work on the development hereby permitted shall not take place other than between the hours of 07:30 hrs and 18:00 hrs on Mondays to Fridays and 08:00 hrs and 13:00 hrs on Saturdays and at no time on Sundays and Public Holidays.
- 8) No development shall commence until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the local planning authority which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the development first being occupied.
- 9) If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination has been submitted to and approved in writing by the local planning authority, which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.
- 10) No development shall commence until drainage details for the disposal of surface water have been submitted to and approved in writing by the local planning authority. The approved details shall be implemented in full before the development is first occupied.
- 11) No development shall commence until details in relation to the management of surface water on site during construction of the development have been submitted to and approved in writing by the local planning authority. Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance and protection. Details regarding the protection of any proposed infiltration areas should also be provided. Once approved, the construction of the development shall then be undertaken in accordance with these details.
- 12) No development shall commence until details in relation to the long-term maintenance of the sustainable surface water drainage system on the development have been submitted to and approved in writing by the local planning authority. The system will be implemented in accordance with the approved details and maintained in perpetuity. Details of the SuDS Maintenance Plan should include for routine maintenance, remedial actions and monitoring of the separate elements of the system and should also include procedures that must be implemented in the event of pollution incidents within the development site.
- 13) No development shall commence until the existing and proposed ground levels of the site and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.
- 14) No development shall commence until a Biodiversity Management Plan for the site which shall set out the site-wide strategy for protecting and enhancing biodiversity including the detailed design of proposed biodiversity enhancements and their subsequent management once the

development is completed, has been submitted to and approved in writing by the local planning authority. The submitted plan shall include a Great Crested Newt Corridor, areas of open space and created habitats including SUDs. All landscaping to informal play space and natural open space should comprise native species wildflower grassland. Development shall be implemented and thereafter maintained in accordance with the approved Management Plan.

- 15) Any reserved matters application shall be accompanied by an updated Badger Survey. The findings of the survey including a method statement for the clearance of the site, shall be submitted to and approved in writing by the local planning authority. The site clearance shall be carried out in accordance with the approved details.
- 16) The layout submitted at reserved matters shall provide a natural vegetation buffer zone of at least 5 metres alongside all retained hedgerow which do not relate to plot boundaries and a 4.5 metre uncut buffer provided as referenced in Section 3.1.2 of the Great Crested Newt Mitigation Strategy dated February 2020.
- 17) During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the local planning authority. If any of the trees or hedges to be retained are removed, uprooted, destroyed or dies during the construction period, a replacement shall be planted at the same place during the first planting season following the completion of the development. The size and species of the tree or hedge shall be agreed in writing by the local planning authority prior to its planting.
- 18) All landscape planting used within the informal/semi-natural open space and adjacent to the boundaries of the site shall be native species only, unless otherwise agreed in writing by the local planning authority.
- 19) No part of the development shall be occupied until a scheme detailing improvements to the existing passing bays shown indicatively on drawing ADC2042-DR-005 Rev P2 has been submitted to and agreed in writing by the local planning authority. Thereafter, the approved scheme shall be completed prior to first occupation of any dwelling.
- 20) No part of the development shall be occupied until the offsite works (new passing bays) shown indicatively on drawing ADC2042-DR-005 Rev P2 and in detail on drawings ADC2042-DR-051 Rev P1, ADC2042-DR-052 Rev P1, ADC2042-DR-053 Rev P1, ADC2042-DR-054 Rev P1, ADC2042-DR-055 Rev P1, ADC2042-DR-056 Rev P1, ADC2042-DR-057 Rev P1, ADC2042-DR-058 Rev P1, ADC2042-DR-059 Rev P1, ADC2042-DR-060 Rev P1, ADC2042-DR-061 Rev P1 and ADC2042-DR-062 Rev P1 have been completed, subject to Section 278 approval.
- 21) No development beyond damp proof course level shall commence until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted to and approved in writing by the local planning authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details.

- 22) Upon first occupation of each individual residential property on the development, residents shall be provided with a 'Waste Minimisation and Recycling Pack'. The details of this Pack shall be first agreed in writing by the Local Planning Authority (in consultation with Leicestershire County Council) and shall provide information to residents about sustainable waste management behaviours. As a minimum, the Pack shall contain the following:
- Measures to prevent waste generation;
  - Information on local services in relation to the reuse of domestic items;
  - Information on home composting, incentivising the use of a compost bin and/or food waste digester;
  - Household Waste Recycling Centre location, opening hours and facilities available;
  - Collection days for recycling services; and
  - Information on items that can be recycled.
- 23) Prior to the first occupation of the development, details of any external lighting not within a residential curtilage shall be submitted to and approved in writing by the local planning authority. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). Light spill onto retained hedgerows and the brook corridor shall be minimised to a value of 1lux or lower at the edge of habitats. The lighting shall be installed, maintained and operated in accordance with the approved details.
- 24) No development beyond damp proof course level shall commence until full details for the provision of electronic communications infrastructure to serve the development, including full fibre broadband connections, has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details and the infrastructure fully available prior to the first occupation of each dwelling on the site.





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## Appeal Decision

Inquiry held on 5 – 6 March 2024

Site visits made on 4 and 6 March 2024

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25<sup>th</sup> March 2024**

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**Appeal Ref: APP/K2420/W/23/3332401**

**Land adjacent to Lockey Farm, Hunts Lane, Desford, Leicestershire, LE9 9LJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Jelson Ltd against the decision of Hinckley and Bosworth Borough Council.
  - The application Ref 23/00061/OUT, dated 13 January 2023, was refused by notice dated 4 September 2023.
  - The development proposed is residential development of up to 100 dwellings including provision of public open space, associated infrastructure, all matters reserved except for access.
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### Decision

1. The appeal is allowed and outline planning permission is granted for residential development of up to 100 dwellings including provision of public open space and associated infrastructure at land adjacent to Lockey Farm, Desford, Leicestershire, LE9 9LJ in accordance with the terms of the application, Ref 23/00061/OUT, subject to the conditions set out in the Annex A.

### Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration except for access. I have determined the appeal on this basis, treating the plan which shows a potential site layout as illustrative. However, the reference in the description of development to what matters are reserved is superfluous and so I have omitted this from my formal decision.
3. The application had a single reason for refusal which referred to the impact of the proposal on both highway safety and highway capacity. However, the Council confirmed at the Case Management Conference and in the Statement of Common Ground (SoCG) that they would not be contesting the reason for refusal insofar as it relates to the residual cumulative impact on the local road network. I have determined the appeal on this basis.
4. A draft agreement under Section 106 of the Town and Country Planning Act 1990 was submitted by the appellant as part of the Inquiry documentation and the agreement was discussed at the Inquiry. As agreed during this discussion the signed and executed Deed was submitted after the close of the Inquiry. I will return to the agreement later in my decision.

## **Main Issue**

5. The main issue in the appeal is the effect of the proposal on highway safety.

## **Reasons**

### *Planning Policy Context*

6. The appeal site comprises an arable field. It lies outside, but adjacent to the settlement boundary for Desford as defined in the *Site Allocations and Development Management Policies Development Plan Document (adopted July 2016)* (SADMP) and so is defined as being in the countryside.
7. Policy 7 of the *Core Strategy Development Plan Document (adopted December 2009)* (CS) supports housing developments within the boundary of Desford which it defines as a Key Rural Centre. Outside of settlement boundaries Policy DM4 of the SADMP sets out the types of development that may be acceptable in the countryside. It is not disputed that the proposal would not be for any of these. Policy H1 of the *Desford Neighbourhood Plan 2018 – 2036 (made May 2021)* (DNP) indicates that outside the settlement boundaries development will be controlled in line with local and national policies. As such, the proposal is contrary to these policies.
8. Given the uncertainties with regard to the housing requirement figure for the DNP which I will discuss further below, Policy H3 of the same allocates the site as a reserve site for housing development. The policy indicates that if by 31 December 2022 no replacement Local Plan for the Borough has been adopted, applications for housing development on the site should be determined on the evidence available at the time. It is agreed in the SoCG that the proposal complies with Policy H3 of the DNP and that compliance with this policy overrides the conflict with CS Policy 7, SADMP Policy DM4 and Policy H1 of the DNP.
9. As a result, conformity or otherwise with Policy DM17 of the SADMP which deals with highways and transportation matters is the only policy disputed by the main parties.
10. In addition, in the SoCG it is agreed that due to the age of the development plan, the changes in national policy since it was adopted, the changes in circumstances regarding development needs and requirements since it was adopted and inconsistencies between the development plan and the *National Planning Policy Framework* (the Framework) the policies which are most important in determining the appeal are out of date. As a result, it is agreed the 'tilted balance' in paragraph 11 d) of the Framework is engaged.
11. The Council are currently in the process of producing a new Local Plan (LP) for the Borough. They undertook consultation on a pre-submission version of this in February 2022. This allocates the site for housing and amends the settlement boundary to include the site. However, as set out in the recently revised Local Development Scheme, they are no longer progressing this plan as they accept the need to address unmet housing needs from Leicester City Council. It is expected that a new "Regulation 19" plan will be consulted on early next year and adoption will be in 2026. As such, no weight can be given to the LP and I consider it no further in my decision.

### *Highway safety*

12. The vehicular and pedestrian access for the proposed development would be taken from Hunts Lane. This is a single carriageway road which in the vicinity of the site frontage is currently subject to a 40mph speed limit. This changes to 30mph around 25m to the east of the site. As part of the appeal scheme, it is proposed to move the gateway feature and the reduction in speed limit approximately 140m to the west.
13. The current access to the field is a Public Right of Way and provides vehicular access to Lockey Farm and slightly further to the west of this is the vehicular access to the adjacent allotments. Directly opposite the site is a small car park for the cemetery and a bit further to the west there is a lay-by that also serves as parking for this. As a result, vehicles slowing down and turning manoeuvres are not uncommon on this stretch of road. Despite these occurring in a 40mph speed limit area, the accident data for this stretch of road shows no existing road safety issues.
14. It is proposed that the development would be served by a new simple priority junction with Hunts Lane which would replace the current farm access. The design and geometry of the proposed junction accords with the *Leicestershire Highways Design Guide* (LHDG). It is also proposed to increase the width of the existing footway on Hunts Lane to the east of the site to 2m up to the existing 2m wide pavement. As a result, the proposal would provide a safe access for pedestrians going towards Desford, including to the primary school and recreation ground/ play area on Kirby Road. As these are both within recommended walking distance of the site, the proposal is not likely to significantly increase traffic on Kirby Road.
15. Whilst the Council had raised some concern in their appeal statement regarding whether adequate visibility could be provided, at the Inquiry it was agreed that the evidence provided by the appellant in their rebuttal proof of evidence had addressed their concerns. Notwithstanding the dip in the road to the west of the site, it was agreed that adequate visibility would be provided at the proposed junction. From the evidence before me and what I saw at my site visit, I see no reason to disagree with this conclusion.
16. Whilst it was also agreed at the Inquiry that the provision of a right turn ghost lane was not necessary, the Council considered that centre line hatching should be provided so that there would be a refuge area created for vehicles turning right into the site. The carriageway would need to be widened to enable this, but there is sufficient land within the highway boundary to achieve this.
17. The LHDG does not provide any guidance as to when such refuges should be provided. Both the *Design Manual for Roads and Bridges* (DMRB) and *Manual for Streets 2* (MfS2) provide some guidance as to when a right-turn lane should be provided.
18. DMRB provides some guidance in Figure 2.3.1 as to approximately when priority junction provision should be provided on single carriageway roads. This indicates that the provision of a ghost island could be required for the proposed development. However, DMRB relates to trunk roads and so is not specifically applicable to the proposal. In addition, MfS2 highlights that junctions will “often [be] able to cater for higher levels of turning traffic without resulting in significant congestion”.

19. The appellant's capacity assessment, the findings of which are not disputed by the Council, shows that vehicles will not wait any significant length of time to turn right into the site. As a result, such movements would not cause undue delays to the free flow of traffic on Hunt's Lane. Therefore, there is no capacity-related reason to provide centre line hatching.
20. Moreover, given it is agreed adequate visibility splays can be provided for the proposed junction, there is no visibility related reason to provide central line hatching, as drivers will be able to clearly see the new junction. As highlighted above, this is already a stretch of road, where turning movements are carried out due to the other existing accesses in the area, so vehicles turning at this point would not be an altogether unexpected movement, even if the proposal would increase the frequency of such manoeuvres.
21. To this end, I note that neither the local highways authority nor the Road Safety Audit carried out for the proposal considered that centre line hatching would be necessary.
22. In addition, MfS2 indicates that the provision of centre line hatching can have the effect of increasing speeds which would not be desirable. By increasing the width of the road, it can also make it harder for pedestrians to cross. Whilst the number of pedestrians seeking to cross the road at this point may be limited, the Public Right of Way is clearly popular with dog walkers. Such users who live to the north of Hunts Lane or who have used the adjacent car park would be likely to cross the road at this point – something I observed on my site visits.
23. The swept path analysis diagrams show that large vehicles such as refuse wagons entering and exiting the site will encroach over the carriageway centreline. As the junction conforms to the LHDG for residential accesses it is clear that the highway authority accepts that this will happen in a residential setting without such movements giving rise to unacceptable safety issues. The appellant highlighted that such movements already occur at many junctions in settlements across the Borough and County without causing safety concerns. The moving of the 30mh speed limit and the gateway feature to the west of the site means the site would have a similar context to these other junctions.
24. Evidence from the appellant, which was not disputed by the Council, shows that the proposed development would not generate a significant number of HGV movements. Whilst HGVs may need to wait to enter and exit the site should other vehicles be using the junction, given the findings of the capacity assessment, any wait to do this is unlikely to be for a significant length of time.
25. Moreover, as the adjacent housing that faces towards Hunts Lane is set back some distance from it and has its own service road, I consider it is unlikely that other drivers would assume a refuse wagon that may have had to stop on the carriageway whilst waiting to enter the site had stopped to empty bins and so try and overtake it.
26. Therefore, the need for HGVs to overrun the carriageway centre line would not result in any unacceptable highway safety issue. Whilst the provision of centre line hatching may alleviate the overrunning in certain turning movements, the benefits would be limited. In any case, as I consider that such overrunning would not result in unacceptable highway safety issues, this matter does not justify the need to provide centre line hatching.

27. Overall, I consider that centre line hatching is not needed either for capacity or safety reasons, and without it the proposed development would still have a safe and suitable access for both vehicles and pedestrians.
28. All in all, I consider that the proposed development would not have an unacceptable impact on highway safety. Accordingly, there would be no conflict with Policy DM17 of the SADMP which requires proposals to demonstrate that they would not cause a significant adverse impact on highway safety. It would also accord with paragraphs 114 and 115 of the Framework which require developments to achieve a safe and suitable access for all users and not cause an unacceptable impact on highway safety.

## **Other Matters**

### *Need for housing*

29. Local residents indicated that Desford had already provided sufficient housing particularly in relation to the 'requirement' for 163 new houses in the DNP. However, the examiner of the DNP did not consider that the figure of 163 was a requirement figure that satisfied what at the time was paragraphs 65 and 66 of the Framework (now paragraphs 67 and 68) and that the matter of housing requirement for the village should be left to be determined in the LP.
30. It was to address the uncertainties in the housing requirement figure for the village that the Examiner considered that reserve sites for housing should be included in the DNP. Whilst not housing allocations, the Examiner assessed the appeal site and another site and concluded they would be appropriate for housing development.
31. As set out above, Policy H3 of the DNP indicates that if by 31 December 2022 no replacement Local Plan for the Borough has been adopted, applications for housing development on the site should be determined on the evidence available at the time. There is nothing in the policy that indicates the development of the site should only take place if there is a specific need for new housing in Desford. Nor that their development should only take place after the DNP has been reviewed.
32. As a result, I consider that the figure of 163 in the DNP does not represent a requirement figure for Desford and the development of the site and the contribution it would make to housing delivery should not be judged against whether this figure has already been exceeded or not, but "on the evidence available at the time".
33. Whilst I appreciate that local residents may prefer that development took place on the eastern side of the village, the Examiner for the DNP assessed this site as being suitable for housing development.

### *Housing Land Supply*

34. The Council indicated that they could demonstrate a 4.89 year housing land supply. In the light of paragraph 226 of the Framework and the position with the LP it was discussed at the Inquiry whether a 4 or 5 year housing land supply needed to be demonstrated. As the Council were not proceeding with the LP that has been subject to pre-submission consultation, they considered that the provisions of paragraph 226 did not apply and so they needed to be

able to demonstrate a 5 year supply. This was the position adopted in the recent appeal decision<sup>1</sup> I was referred to in Ratby.

35. However, as set out above, irrespective of this the main parties agree that the tilted balance of paragraph 11 d) of the Framework is engaged. As such, I have considered this no further in my decision.
36. It was argued by local residents that if the tilted balance is engaged then the provisions of paragraph 14 should be applied. Nevertheless, for reasons set out in this decision I consider that the proposal would not conflict with the DNP, nor does the DNP have an identified housing requirement in line with paragraphs 14b, 67 and 68 of the Framework. As a consequence, this paragraph is not engaged in this case.

#### *Other highway and accessibility issues*

37. In line with its designation as a Key Rural Centre, Desford has a good range of services and facilities to meet the day to day needs of residents, the majority of which are within walking and/or cycling distance of the appeal site. Bus stops, which provide an hourly service to Leicester and Market Bosworth are also located near the site on Hunts Lane. I am therefore satisfied that future residents would not be solely reliant on the private car to meet their everyday needs.
38. It has been suggested that the proposal would exacerbate existing congestion within Desford. However, the highway authority has considered the modelling work undertaken by the appellant and is satisfied that the highway network within the village would continue to operate within capacity. Whilst there is limited parking available at many of the services in the village, the development is within easy walking distance of many of these and so it would not necessarily exacerbate any existing parking issues.
39. It is proposed that the existing Public Right of Way and right of access to Lockey Farm will be retained on their current alignment. The illustrative layout shows a green corridor along this edge of the site which would ensure it remained an attractive route.

#### *Local Infrastructure*

40. It has been suggested that local facilities such as doctors and schools are already full. As set out below a planning obligation has been provided which provides a financial contribution related to the additional educational and healthcare demands the development would create.

#### *Character and appearance / Landscape impact*

41. The application was accompanied by a Landscape and Visual Appraisal (LVA), the methodology and conclusions of which are accepted by the Council. The proposal would result in the loss of an agricultural field and clearly the proposed development would alter the character of the site. However, the LVA concludes that due to the topography and vegetation in the area, the effects will be localised to the site and its immediate context. Although the landscaping and layout of the site are to be finalised at reserved matters, extensive green infrastructure is proposed as part of the development. As a consequence, it is

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<sup>1</sup> Appeal reference APP/K2420/W/23/3330774

concluded that the landscape effects would be minor/adverse at completion, reducing to minor/negligible over time. From my own observations I see no reason to disagree with this conclusion

42. Given the distance that would remain between the edge of the site and Newbold Vernon to the west I am satisfied that the development would not have any detrimental impact on the separate identity of these two villages. The development would be seen in the context of the existing modern housing development on the western edge of the village, and so I consider it would not be detrimental to the rural character of the village. In addition, the wider agricultural setting of the village would be retained.
43. CS Policy 16 requires residential development in or adjoining Key Rural Centres to achieve a density of at least 30 dwellings per hectare. Should the development be for 100 houses, it would achieve a density of 35 dwellings per hectare and so it would accord with this policy. Furthermore, the illustrative layout shows this level of housing can be achieved whilst still providing extensive green infrastructure on the site. As a result, the site would not appear over-developed.

### *Ecology*

44. The proposal was accompanied by an Ecological Appraisal that assessed the nature conservation interest of the site. This concluded that the development would not have an unacceptable impact on ecology. It is largely proposed to retain and strengthen existing trees and hedgerows around the site. In addition, it was confirmed at the Inquiry that the proposal would achieve biodiversity net gain. In the absence of any substantive evidence to the contrary I see no reason to conclude differently.

### *Living Conditions*

45. The layout and design of the scheme are not to be determined at this stage. Therefore, it is at the reserved matters stage that issues affecting the living conditions of adjacent residents such as privacy and noise would be considered. Nonetheless, the illustrative plan shows that adequate separation distances could be provided between existing and proposed houses. I consider that a scheme could be designed that would not cause any unacceptable impact on the living conditions of existing residents. Furthermore, I see no reason why the proposal would cause an increase in anti-social behaviour.
46. In common with any development there would be some disruption caused during the construction phase. However, this would be temporary, and conditions can be used to control matters such as construction hours and dust and so minimise any disruption.
47. The location of the site opposite the cemetery would not be inappropriate, either for future occupiers or for users of the cemetery. The situation would be no different than in the historic core of the village where housing surrounds the church and its graveyard.

### *Flooding*

48. The site lies in Flood Zone 1 and the accompanying Flood Risk Assessment concluded that the overall flood risk to the site was low and that the development would not result in an increase in flood risk elsewhere. In the

absence of any substantive evidence to the contrary, I consider the proposal would not have any adverse impact on flooding.

### **Planning Obligation**

49. A signed and completed Section 106 agreement has been submitted. This secures the provision of 40% affordable housing as well as the type and occupancy of the units. It also makes provision for financial contributions to increase the capacity of: the nearest household waste recycling site; early years, primary, secondary and special education and disabilities education facilities at the nearest schools; at Desford Medical Centre; and at Desford library. These would reflect the extra demand the development would create for these services.
50. The obligation also secures the provision of various forms of open space either on the site or by way of financial contribution for the improvement or enhancement of existing facilities in Desford for those elements that cannot be provided on site. The long-term management and maintenance of the open space is also provided for in the obligation.
51. A number of highway related financial contributions are also secured in the obligation. These are: for the provision of Travel Packs and bus passes for each dwelling; to enable the monitoring of the Travel Plan; to fund the Traffic Regulation Order needed to move the speed limit on Hunts Lane; and towards improvements at Desford Crossroads.
52. The Borough Council and the County Council have both provided a detailed CIL Compliance Statements that set out how the section 106 agreement would meet the relevant tests contained in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and in paragraph 57 of the Framework.
53. Desford Crossroads is located some distance to the south-east of Desford on the A47. The appellant's evidence shows that the impact of the development on the 2028 background + committed development flows at this junction would be an additional 15 movements in each of the AM and PM peak. This represents a 0.005% increase in traffic movements. Neither the methodology nor the results of this work have been disputed by the highway authority.
54. Although this level of increase in traffic movements would not ordinarily require a capacity assessment to be undertaken, the appellant has done one. This shows that the junction is already operating over capacity, but that the impact of the development on the practical reserve capacity of the junction and the mean maximum queue would be negligible and well within the normal daily variations in traffic flow. Thus, whilst a scheme to improve this junction may be needed to address capacity issues, the proposal would not exacerbate these issues and so it is not reasonable to require it to contribute towards it.
55. Given this I consider that the contribution towards the improvement of this junction is not fairly related in scale and kind, nor is it necessary, and so does not pass the tests in the regulations and Framework set out above.
56. Other than this contribution, I am satisfied that all of the other obligations in the section 106 agreement are necessary, directly related to the development and fairly related in scale and kind. As such, they accord with the statutory tests.

## **Planning Balance and Conclusion**

57. The proposed development is located in the countryside, outside of the settlement boundary. It would not be for any of the forms of development either national or local policies consider acceptable in the countryside. As a result, it would be contrary to CS Policy 7, SADMP Policy DM4 and Policy H1 of the DNP. However, I consider that the conflict with these policies is over-ridden by its conformity to Policy H3 of the DNP.
58. I have also found that the proposal would accord with SADMP Policy DM17 in respect of highway safety. Therefore, I consider that the proposed development would accord with the development plan and there are no other reasons which justify refusal of the proposal. Consequently, I conclude that the appeal should be allowed.

## **Conditions**

59. The Council and the appellant agreed a set of conditions that were discussed at the Inquiry. I have considered these in the light of paragraph 56 of the Framework and have revised a number of them as discussed at the Inquiry.
60. In addition to the standard implementation and reserved matters conditions (conditions 1 and 2), to provide certainty it is necessary to define the plans with which the scheme should accord (condition 3). Condition 4 is necessary in the interests of the character and appearance of the area and biodiversity. To safeguard the protected trees as well as in the interests of visual amenity condition 5 is needed. In the interests of safeguarding biodiversity conditions 16, 17, 21 and 23 are required.
61. In the interest of promoting sustainable travel condition 6 is required and for highway safety reasons conditions 8 and 9 are required. Condition 7 is required to ensure any matters of archaeological interest are found and recorded. Conditions 10 and 11 are necessary to safeguard the development from contaminated land. To ensure the site is satisfactorily drained both during the construction phase and afterwards conditions 13, 14 and 15 are imposed.
62. Conditions 12, 19 and 20 are necessary to ensure satisfactory living conditions for existing and/or future occupiers. Condition 18 is imposed to ensure the development is provided with high quality and reliable communication infrastructure.
63. Condition 22 is required to ensure healthy lifestyle features are built into the design of the development. The appellant and Council suggested slightly different wording for this condition. As acknowledged in the Building for a Healthy Life toolkit, for various reasons it may not always be possible to achieve a 'green light' for every consideration, so I consider the wording suggested by the appellant is the most appropriate.

*Alison Partington*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Rebecca Clutten Counsel instructed by Mr C Alsbury

She called:

Mr Rob Holland BA(Hons) MCIHT  
Mr Craig Alsbury BA(Hons) BTP  
MRTPI  
Ms Emily Hill MRTPI\*

Associate Director, Tetra Tech  
Principal and Head of Planning and  
EIA Team, Avison Young  
Associate Director, Avison Young

### FOR THE LOCAL PLANNING AUTHORITY:

Hugh Richards Counsel instructed by the Borough Solicitor, Hinckley and Bosworth Borough Council

He called:

Mr Simon Pratt BEng(Hons) MCIHT  
Mr Tim Hartley MRTPI\*

Director SCP Transport Planning  
Team Leader, Development  
Management, Hinckley and  
Bosworth Borough Council  
Transport Planner Leicestershire  
County Council  
Transport Planner Leicestershire  
County Council

Mr Daniel Putnam\*

Mr Ben Dutton\*

\* In respect of the round table discussion on conditions and the planning obligation only.

### INTERESTED PARTIES:

Mr Bernard Grimshaw  
Mr Colin Crane

Local Resident  
Local Resident

## INQUIRY DOCUMENTS

INQ1 Opening statement by Appellant  
INQ2 Opening statement by Council  
INQ3 Statement by Mr B Grimshaw  
INQ4 Appeal Decision APP/K2420/W/23/3330774 – Land at Desford Lane, Ratby  
INQ5 Closing Statement by Council  
INQ6 Closing Statement by Appellant

## CORE DOCUMENTS

Can be accessed using the following link:

[About the inquiry | Public inquiry - Land adjacent to Lockley Farm, Hunts Lane, Desford | Hinckley & Bosworth Borough Council \(hinckley-bosworth.gov.uk\)](https://www.hinckley-bosworth.gov.uk/about-the-inquiry-public-inquiry-land-adjacent-to-lockley-farm-hunts-lane-desford)

## **Annex A**

### **Conditions**

- 1) No development hereby permitted shall take place until details of the layout, scale, appearance, landscaping, and access other than the access into the site shown on drawing PRJ01-TTE-00-ZZ-DR-O-0001 Rev PO3 (hereinafter called "the reserved matters") have been submitted in writing to, and approved in writing by, the local planning authority. The development shall be implemented in accordance with the approved reserved matters.
- 2) Application for approval of reserved matters shall be made to the local planning authority not later than two years from the date of this permission and the development hereby permitted shall take place not later than 18 months from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in full accordance with the following approved plans:
  - Site Location Plan – Drg No. 09129-FPCR-XX-XX-DR-A-0001
  - Proposed Site Access Junction and Visibility Splays Drg No. PRJ01-TTE-00-ZZ-DR-O-0001 Rev PO3
- 4) In accordance with the details in Paragraph 5.3 (Landscape and GI Infrastructure (GI) Proposals) of the Landscape and Visual Appraisal (dated November 2022), a landscape buffer (which may incorporate the retained PROW / farm access track) at a minimum width of 15m shall be created on the western boundary of the site.
- 5) The development hereby permitted shall be carried out in full accordance with the Tree Retention Plan (9129-T-02 Rev C) at page 18 and the recommendations at Section 7 of the Arboricultural Assessment (dated November 2022). During the construction period, none of the trees or hedges indicated to be retained within this Tree Retention Plan shall be cut down, uprooted, or destroyed, nor shall they be topped or lopped other than in accordance with the approved plans, without the written approval of the local planning authority. If any of the trees or hedges to be retained are removed, uprooted, destroyed, or dies during the construction period, a replacement shall be planted at the same place during the first planting season following the completion of the development. The size and species of the tree or hedge shall be agreed in writing by the local planning authority prior to its planting.
- 6) The Travel Plan management, marketing, promotion, and monitoring measures included within the Tetra Tech Framework Travel Plan (reference: A114475 Revision 2) (dated December 2022), shall be implemented in full, from the first occupation of the development.
- 7) No development hereby permitted shall take place until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a Written Scheme of Investigation (WSI), which has been submitted in writing to, and approved in writing by, the local planning authority. For land that is included within the WSI, no development shall take place other than in accordance with the agreed

WSI, which shall include the statement of significance and research objectives, and:

- The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
  - The programme for post-investigation assessment and subsequent analysis, publication & dissemination, and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.
- 8) No development hereby permitted shall take place on the site until such time as a construction traffic management plan, including as a minimum, details of the routing of construction traffic, details of traffic management including measures to enable vehicles to enter and exit the site in forward gear, wheel cleansing facilities, vehicle parking facilities, any proposed external lighting and a timetable for their provision, has been submitted in writing to, and approved in writing by, the local planning authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.
- 9) No dwelling hereby permitted shall be occupied until such time as the access arrangements and the off-site works (footway improvements) shown on Tetra Tech, drawing number PRJ01-TTE-00-ZZ-DR-O-0001 Revision P03, have been implemented in full.
- 10) No development hereby permitted shall take place until a scheme for the investigation of any potential land contamination on the site has been submitted in writing to, and agreed in writing by, the local planning authority, which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details, and any remediation works so approved shall be carried out prior to any dwelling being occupied.
- 11) If during development contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to, and approved in writing by, the local planning authority, which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to any dwelling being occupied.
- 12) No development hereby permitted shall take place until a Construction Environmental Management Plan (CEMP) has been submitted in writing to, and agreed in writing by, the local planning authority. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light, and land contamination. The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the construction phase of the development.
- 13) No development hereby permitted shall take place until a scheme to provide a sustainable surface water drainage system has been submitted in writing to, and approved in writing by, the local planning authority. The

scheme shall subsequently be implemented in accordance with the approved details prior to any dwelling being occupied and shall be retained as such thereafter.

- 14) No development hereby permitted shall take place until such time as details in relation to the management of surface water on site during construction of the development has been submitted in writing to, and approved in writing by, the local planning authority. Details should demonstrate how surface water will be managed on site to prevent an increase in flood risk during the various construction stages of development from initial site works through to completion. This shall include temporary attenuation, additional treatment, controls, maintenance, and protection. Details regarding the protection of any proposed infiltration areas should also be provided. The details shall be implemented before any development hereby permitted takes place and the development shall be managed and maintained in accordance with these approved details for the duration of the construction period.
- 15) No dwelling hereby permitted shall be occupied until details in relation to the long-term maintenance of the surface water drainage system (SuDS) within the development have been submitted to, and approved in writing by, the local planning authority. Details of the SuDS Maintenance Plan should include responsibilities and schedules for routine maintenance, remedial actions, and monitoring of the separate elements of the system, and should also include procedures that must be implemented in the event of pollution incidents within the site. The surface water drainage system shall then be maintained in accordance with these approved details in perpetuity.
- 16) No development hereby permitted shall take place (including ground works or vegetation clearance) until a Landscape and Ecological Management Plan (LEMP) has been submitted in writing to, and approved in writing by, the local planning authority. The LEMP shall include the following details:
  - a) Description and evaluation of the features to be created/managed;
  - b) Aims and objectives of management and long-term management;
  - c) Appropriate management options for achieving aims and objectives;
  - d) Prescriptions for management actions and responsibilities;
  - e) Work schedules for all landscape areas, other than small privately owned domestic gardens;
  - f) Species/seed mixes to be planted/sown; and
  - g) Ongoing monitoring and remedial measures.

The LEMP shall be carried out in accordance with the approved details.

- 17) No development hereby permitted shall take place until a Reasonable Avoidance Measures Method Statement (RAMMS) has been submitted to, and approved in writing by, the local planning authority. The RAMMS should include details including the proposed mitigation measures during the construction and post construction phases of the development that ensures that there is no impact upon the terrestrial newt, reptile, or badger populations. The development shall be carried out in accordance with the approved details and in respect of the post construction measures thereafter retained in perpetuity.

- 18) The development hereby permitted must provide electronic communications infrastructure to serve the development, including full fibre broadband connections. Prior to the installation of any electronic communications infrastructure, details of the infrastructure must first be submitted to, and approved in writing by, the local planning authority. The development shall be implemented in accordance with the approved details, and the infrastructure for each dwelling must be fully available prior to its occupation.
- 19) Site preparation and construction shall be limited to the following hours:
  - Monday to Friday: 07:30 to 18:00
  - Saturday: 09:00 to 14:00
  - No working on Sundays and Bank Holidays.
- 20) No dwelling hereby permitted shall be occupied until such time as a scheme that makes adequate provision for the storage and collection of waste and recycling containers across the site, has been submitted to, and approved in writing by, the local planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and collect wheeled containers. The approved scheme for the provision of storage and collection areas for waste and recycling containers for each dwelling, shall then be provided prior to the occupation of that dwelling and for any waste storage in communal areas shall be retained in perpetuity.
- 21) No development hereby permitted shall take place (including ground works or vegetation clearance) until a Biodiversity Net Gain Plan (the Plan) has been submitted in writing to, and approved in writing by, the local planning authority. The Plan shall provide for the achievement of a net gain on the reported baseline habitat loss. The Plan shall include the following details:
  - a) a description of existing habitats on and off site;
  - b) baseline habitat data used to inform the metric;
  - c) a description of, and plans showing, planned habitat creation/enhancement, including species;
  - d) a timetable for the implementation of habitat creation/enhancement;
  - e) a habitat management and monitoring plan including a timetable for management routines and reviews, and a strategy for any remedial measures, if and when required; and
  - f) a mechanism for securing the implementation of the biodiversity off-setting (if required) and its maintenance/management for a period of 30 years in accordance with details approved in the Plan.

The Plan shall be supported by up to-date Biodiversity Net Gain metric calculations for both the application site and the site for off-setting (if required) using DEFRA metric 4.0. The Plan shall be implemented in accordance with the approved details and shall be retained as such thereafter.

- 22) Each application for the approval of Reserved Matters shall include a Building for a Healthy Life Assessment which describes how the considerations in Building for a Healthy Life that are relevant to the matters for which approval is being sought have been addressed through the design process and how the proposed development responds to each of those considerations.

- 23) Prior to the installation of any external lighting to serve the development, a lighting scheme shall be submitted in writing to, and approved in writing by, the local planning authority. This information shall include a layout plan with beam orientation, and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles, and luminaire profiles). The lighting scheme shall ensure there shall be no more than 1 lux of light spill onto bat foraging corridors. The lighting shall be installed, maintained, and operated in accordance with the approved details and retained as such thereafter.

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## Appendix 7 – Local Education Authority letter

Date: 10/02/2025  
My ref: BH  
Contact: Becky Horsfield  
Phone: 0116 305 3821  
Email: Rebecca.horsfield@leics.gov.uk

(via email)

Dear Richard,

Following on from our conversation I am happy to confirm that:

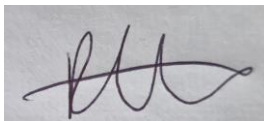
- The LA are supportive of the principle of safeguarding land for education, in case it is required for additional pupil places at Newbold Verdon Primary School.
- We have consulted with the school, and the school and ourselves are happy with the piece of land shown for the expansion of the school, if it is required, subject to comments from highways and planning.

At the time of this response, we are still uncertain about the site coming forwards in the Hinckley & Bosworth District Councils Local Plan. Until we know the sites which are coming forwards, we cannot be totally sure of the impact on schools in the area.

If Hinckley & Bosworth indicate that there could be areas where multiple developments combined necessitate a new school being built or a significant expansion of an existing school, then all developments would need to contribute towards land costs and a pro rata rate towards the cost of the new school/expansion.

We reserve the right to review and update all Section 106 returns up to the signing of the S106 agreement.

Yours Sincerely



Becky Horsfield  
School Place Planning Officer  
School Organisation Service