

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

WRITTEN STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

PLANNING APPEAL BY MS TRACEY CLEALL

**AGAINST THE REFUSAL OF OUTLINE APPLICATION FOR THE PROVISION OF A
SINGLE DWELLING (ALL MATTERS RESERVED EXCEPT FOR ACCESS AND
LAYOUT)**

AT:

21 GREENMOOR ROAD, BURBAGE, HINCKLEY, LE10 2LS

HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:

24/00275/OUT

THE PLANNING INSPECTORATE REFERENCE:

APP/K2420/W/24/3351678

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1. INTRODUCTION

- 1.1. This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, in full support of the decision of Hinckley and Bosworth Borough Council to refuse outline planning permission for the provision of a single dwelling (all matters reserved except for Access and Layout) at 21 Greenmoor Road, Burbage.

2. DESCRIPTION OF THE APPEAL SITE, THE SURROUNDING AREA, AND THE PROPOSAL

The Appeal Site:

- 2.1. The 336sqm appeal site is located within the identified settlement boundary of Burbage and is currently utilised as part of the garden land associated with 21 Greenmoor Road, Burbage. 21 Greenmoor Road is a three-bedroom, detached dormer bungalow that has been redesigned and rebuilt via planning permissions 15/01042/FUL and 20/00198/CONDIT.
- 2.2. Due to the topography of the site, the appeal site sits slightly higher than the host dwelling. Based on the Topography Plan, the land rises from the front of 21 Greenmoor Road to the rear of the appeal site adjacent to Rugby Road by 2.3m from 112.97m AOD to 115.32m AOD respectively. However, it is noted that the site levels for the existing dwelling are predominantly 113.5m AOD.
- 2.3. Greenmoor Road itself is wholly residential in character and comprises a variety of bungalows and two-storey residential properties that feature long gardens that back onto Rugby Road.
- 2.4. Rugby Road is a highly trafficked, adopted, and classified 'B' road (B4109), which is subject to a 30mph speed limit and is part of the County Council's Resilient Network of highways that are considered essential for economic activity. Rugby Road is a main route in and out of both Burbage and Hinckley and provides a direct route to the M69. There are currently no existing or approved dwellings that directly front onto, nor have an access onto, the western side of Rugby Road for a minimum of 275m to the north of, and 175m to the south of the appeal site.

The Appeal Proposal:

- 2.5. This appeal proposal seeks outline planning permission for the Access and Layout of one detached dwelling to the rear of 21 Greenmoor Road, Burbage. To facilitate this development, the scheme creates a new access onto Rugby Road. The layout of the scheme externally measures 10m in width by 9m in depth, with a total footprint of 79.1sqm.

- 2.6. The precise appearance of the scheme is reserved for later approval and therefore the extent of the proposal, including its layout and access, are described and assessed via the Proposed Block Plan. The Proposed Block Plan indicatively suggests that the development shall be a three-bedroom dormer bungalow.

3. **SITE HISTORY**

- 3.1. N/A.

4. **NATIONAL POLICIES**

- 4.1 National Planning Policy Framework (NPPF) (December 2023).
- 4.2 National Planning Practice Guidance (PPG).
- 4.3 National Design Guide (NDG) (2019).

5. **LOCAL POLICIES**

- 5.1 The Development Plan policies referred to for the purposes of the application were:

- 5.2 Core Strategy (2009):

- Policy 4: Development in Burbage

- 5.3 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highway and Transportation
- Policy DM18: Vehicle Parking Standards

- 5.4 Burbage Neighbourhood Plan 2015 – 2026 (BNP) (2021):

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout
- Policy 4: Parking

- 5.5 Other Relevant Guidance:

- Good Design Guide (GDG) (2020)
- Leicestershire Highways Design Guide (LHDG) (2022)

6. THE CASE FOR THE LOCAL PLANNING AUTHORITY

6.1 The planning application was refused on 14 May 2024 under delegated powers for the following reason:

1. The development fails to complement, respect, or enhance the character of the surrounding as a result of its back land location, layout, and access, and it is considered to have a significant and detrimental effect on the character and appearance of the area. This harm is considered to significantly and demonstrably outweigh any potential benefits of the scheme. As a result, the scheme is in conflict with, and contrary to, the Good Design Guide (2020), Policy 2 of the Burbage Neighbourhood Plan (2021), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Section 12 of the National Planning Policy Framework (December 2023).

6.2 Despite several references to the highway safety and residential amenity within the Appellant's Statement of Case, these are not reasons for refusal within this appeal.

6.3 In addition, whilst the Appellant has referred to the principle of the development, the principle of a development within the identified settlement boundary of Burbage was accepted by the Local Planning Authority at Paragraph 8.8 of the Delegated Officer's Report and therefore this matter is not disputed, nor is it a reason for refusal within this appeal.

6.4 In light of the above, and as per Paragraph 6.3 of the Appellant's Statement of Case, the main planning issues in relation to this appeal are the adverse effects of the proposed development on the character of the surrounding area.

Policy:

6.5 Paragraph 4.4 of the Appellant's Statement of Case states that the Local Planning Authority, "*Cannot currently identify a five-year housing land supply.*" The Appellant then contradicts this assertion and acknowledges that the Council can demonstrate a five-year housing land supply at Paragraph 4.17 of their Statement of Case.

6.6 Since the determination of planning application 24/00275/OUT, Hinckley and Bosworth Borough Council can now demonstrate a five-year supply of land for housing. On 29 July 2024, the Council published an updated five-year housing land supply from March 2023 to March 2028 that demonstrated a 5.6-year supply of housing, with a surplus supply of 145 dwellings over the five-year period (c.f. Appendix A).

6.7 This is a significant change in the material considerations of the appeal proposal since the determination of application 24/00275/OUT and, for decision taking a five-year supply of land for housing is a material consideration in all relevant applications for new dwellings in the Borough.

- 6.8 Despite being able to demonstrate a five-year housing land supply, due to the age of the relevant housing policies within the adopted Core Strategy, the Local Planning Authority consider that the 'tilted' balance still applies.
- 6.9 Therefore, in accordance with Paragraph 11(d) of the NPPF, planning permission for housing should be granted 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.
- 6.10 Notwithstanding the above, Paragraph 225 of the NPPF confirms that:
- "Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."*
- 6.11 This approach is supported by the High Court judgement *Wavendon Properties Limited v SSHCLG [2019] EWCH 1524* as referred to within Paragraph 5.21 of the Appellant's Statement of Case.
- 6.12 It is noted that the Appellant has not sought to argue that the planning policies within the reason for refusal of application 24/00275/OUT are not consistent with the NPPF.
- 6.13 Therefore, Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) and Policy 2 of the adopted Burbage Neighbourhood Plan (BNP) are considered to attract full weight in the planning balance. This assertion has been supported for Policy DM10 of the SADMP by the Inspector at Paragraph 4 of the dismissed appeal decision of application 24/00054/FUL (APP/K2420/W/24/3341198) at 65A Newbold Road, Barlestone (c.f. Appendix B).
- 6.14 In addition, Paragraph 14 of the NPPF confirms that in situations where the presumption (at Paragraph 11(d) of the NPPF) applies to applications involving the provisions of housing, the adverse impacts of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
- (a) The neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
 - (b) The neighbourhood plan contains policies and allocations to meet its identified housing requirement, where that requirement has been identified within five years or less of the date on which the decision is made.

The requirements of Paragraph 14 of the NPPF were highlighted at Paragraph 4.28 of the Appellant's Statement of Case.

- 6.15 The BNP was adopted in 2021 and therefore complies with Paragraph 14(a) of the NPPF. However, Paragraph 6.25 of the Appellant's Statement of Case suggested that Paragraph 14 of the NPPF does not apply because the Burbage Neighbourhood Plan does not contain any allocations for housing.
- 6.16 Paragraph 8.3 of the BNP confirms that Burbage has already exceeded its identified housing requirement and therefore the BNP does not allocate any further development sites within Burbage. In light of this, and the Council's Five-Year Housing Land Supply Statement (1 April 2023 – 31 March 2028) (2024), the BNP complies with Paragraph 14(b) of the NPPF.
- 6.17 The Appellant has referred to the allowed appeal decision at the Land adjacent to Lockey Farm, Hunts Lane, Desford (APP/K2420/W/23/3332401) at Paragraph 5.19 of their Statement of Case where the Inspector did not apply Paragraph 14 of the NPPF. Importantly, this Desford appeal related only to highway matters and is materially different to the current appeal proposal. Nevertheless, Paragraph 5.19 of the Appellant's Statement of Case confirms that Paragraph 14 of the NPPF was not considered in this allowed appeal decision because the Inspector did not find conflict with the Neighbourhood Plan.
- 6.18 In comparison to this, the Local Planning Authority have identified that the current appeal proposal conflicts with Policy 2 of the BNP and therefore, in accordance with the NPPF, the adverse impacts of allowing development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits of the scheme.
- 6.19 Paragraph 6.29 of the Appellant's Statement of Case then refers to the High Court judgement *R v Rochdale Metropolitan Borough Council ex Party Milne* (2000) in relation to complying with the Development Plan considered as a whole. Notwithstanding this, Paragraph 3.1 of the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) confirms that the SADMP is not an isolated plan, and it must be in conformity and read alongside national guidance as well as the Core Strategy and other documents in the Local Plan. Paragraph 3 of the National Planning Policy Framework (NPPF) confirms that the Framework should be read as a whole (including its footnotes and annexes).
- 6.20 In light of the requirements of the Development Plan and the NPPF, the Local Planning Authority are unsure as to why the Appellant has referred to this High Court judgement from 2000.
- 6.21 In addition, the Appellant's reference to a scheme's, "*Non-compliance with one section of a policy*," at Paragraph 6.29 of their Statement of Case is a weak attempt to diminish the importance of promoting good design and ensuring developments complement or enhance the character of the surrounding area, which is required by Policy DM10 of the SADMP, Section 12 of the NPPF, and the National Design Guide.

- 6.22 In summary, planning permission for housing should be granted 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. Policy DM10 of the SADMP and Policy 2 of BNP are consistent with the NPPF and attract full weight in the planning balance. The BNP also complies with the requirements of Paragraph 14 of the NPPF and therefore the adverse impacts of allowing development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits of the scheme.

Relevant Planning Decisions:

- 6.23 Within their Statement of Case, the Appellant referred to three different planning applications within the vicinity of the appeal site. These include planning applications 14/01189/OUT, 21/01361/FUL, and 22/00236/FUL. It is noted that all three applications are located within the Sketchley Hill House site on the eastern side of Rugby Road, Burbage.
- 6.24 Paragraph 5.7 of the Appellant's Statement of Case highlights the crucial difference between the Sketchley Hill House site and the appeal site. Paragraph 5.7 of the Appellant's Statement of Case confirms that the approved development within 21/01361/FUL was considered, *"Characteristic of the large adjacent dwelling that fronts the main road."* As per the picture on Page 5 of the Appellant's Statement of Case, the development approved via 22/00236/FUL is immediately adjacent to the existing dwelling Sketchley Hill House, which fronts onto, and benefits from an existing access onto Rugby Road. It is noted that the development within 22/00236/FUL also utilised an amended existing field access onto Rugby Road.
- 6.25 In comparison to the appeal site, there is no example of an access to a property for a considerable distance on the western side of Rugby Road between 321 Rugby Road and 209 Rugby Road. Notwithstanding 209 Rugby Road, it is noted that 191 Rugby Road is the first property to have a direct vehicular access onto the western side of Rugby Road to the north of the site.
- 6.26 Furthermore, Paragraph 5.11 of the Appellant's Statement of Case acknowledges that the Local Planning Authority considered Plot 1 of 14/01189/OUT to be acceptable because it was, *"In line with the existing neighbourhood property to the north."*
- 6.27 It is evident from the approved site layout of 14/01189/OUT on Page 17 of the Appellant's Statement of Case that the approved development was wholly surrounded by residential properties and, as confirmed at Paragraph 5.12 of the Officer's Report, the linear siting of the plots is in keeping with the surrounding neighbouring properties to the site.
- 6.28 For clarity, there is no other example of back land development to the rear of Greenmoor Road, nor any structure that has an access onto the B4109 from the western side of Rugby Road in the immediate vicinity of the site. This a key material difference between the appeal site and the Sketchley Hill House site.

- 6.29 Importantly, planning application 21/01361/FUL was referred to by the Appellant within the determination of 24/00275/OUT and reviewed within the Council's assessment of the appeal proposal at Paragraphs 8.51 to 8.54 of the Delegated Report.
- 6.30 It is noted that the Appellant has failed to refer to the Council's consideration of 21/01361/FUL within the Delegated Report, nor the Local Planning Authority's assessment of this previous planning permission within their Statement of Case.
- 6.31 As per Paragraph 8.54 of the Delegated Report:

"Ultimately, all planning applications should be considered on their own merits, and it is not considered that the character of an application site, which is 110m south of this current proposal on the opposite side of Rugby Road with materially different site-specific considerations appropriately justifies the incongruous back land development that the scheme proposes."

- 6.32 To summarise, the Appellant has referred to three planning applications that feature examples of infill and back land development proposals on the eastern side of Rugby Road within a larger site that benefitted from two existing vehicular accesses onto Rugby Road. The second access was developed into a full vehicular access to serve the proposal approved via 22/00236/FUL. These planning permissions principally attract little weight in the determination of this appeal because their circumstances are totally different to the appeal proposal and its associated site. Importantly, each planning application should be considered on its own merits and the appeal site is located in an area with materially different site-specific circumstances. Crucially, the appeal site is on the western side of Rugby Road where there is no example of a dwelling fronting onto this classified 'B' road for approximately 450m.

Impact upon the Character of the Surrounding Area

- 6.33 Section 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 6.34 Notably, Paragraph 135(a) and (c) of the NPPF require development to, *"Function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development,"* and to be, *"Sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change,"* respectively.
- 6.35 Paragraph 136 of the NPPF also highlights that trees make an important continuation to the character and quality of urban environments.

- 6.36 Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 6.37 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 6.38 Paragraph 14.3 of the SADMP states that, *“The Borough Council will ensure that all new development helps to create an attractive and safe environment that is in keeping with the character of the location in which is situated.”* This is also in accordance with C1 of the National Design Guide, which suggests that well-designed new development should, *“Understand and relate well to the site and its wider context.”*
- 6.39 Policy 2 of the BNP requires any future residential development within Burbage to respect its surroundings and, where appropriate, it should follow the existing pattern of development and retain existing important natural features on the site, such as trees, hedgerows, and streams.
- 6.40 Section 14 of the BNP confirms that the siting of new buildings should be examined from all directions and new buildings should respect established building lines.
- 6.41 Given the wording of Policy 2 and Section 14 of the BNP, the Appellant has suggested that these are not, *“Hard and fast rule[s] which must apply everywhere.”*
- 6.42 Importantly, the Appellant has failed to justify why it would be acceptable for the proposal to not adhere to the requirements of the BNP. In addition, the Appellant’s line of argument deliberately disregards the requirement for a development to respect its surroundings and relate well to the wider context of the area, which is set out in the NPPF and the National Design Guide.
- 6.43 Therefore, the Appellant’s assertion does not imply that the requirements of the BNP do not apply to this appeal development, nor that they should not be taken into consideration with appropriate weight within the determination of this appeal proposal. On the contrary, the requirements of the BNP are in accordance with National Policy and Guidance and do apply within the determination of this appeal proposal.
- 6.44 At Paragraph 6.5 of their Statement of Case, the Appellant questions whether the scheme is considered to be back land development given that the development fronts onto Rugby Road.
- 6.45 The Good Design Guide defines back land development as:
- “The development of sites at the back of existing development, such as back gardens.”*

- 6.46 The development is located at the back of the existing development along Greenmoor Road in the back garden of 21 Greenmoor Road. This is considered to meet the definition of back land development as per The Good Design Guide.
- 6.47 Whilst the appeal proposal fronts onto Rugby Road, that does not suggest that the scheme is not a back land development. These two factors coexist and emphasise the site-specific challenges of developing this appeal site for housing.
- 6.48 For clarity, the Local Planning Authority has not suggested that back land development cannot successfully occur within the Borough. However, the Good Design Guide clearly states at Page 42 that, *“Some sites may be able to accommodate this type of development, whereas others will not.”*
- 6.49 Notably, the Good Design Guide confirms that development in back land locations will require clear and convincing justification. The Appellant has failed to provide any clear or convincing justification for the location of this appeal proposal.
- 6.50 The Local Planning Authority strongly refute the Appellant’s claim that a vehicular access from the western side of Rugby Road, *“Would not be an uncharacteristic feature.”* The Local Planning Authority has evidenced within this Statement of Case and the Delegated Report that the appeal site is in an area that extends for almost half a kilometre where the western side of Rugby Road is not characterised by back land development, nor any direct vehicular accesses onto Rugby Road.
- 6.51 As highlighted previously within this Statement of Case and the Delegated Report, the Appellant has referred to three different developments within one site on the eastern side of Rugby Road, which have materially different site-specific circumstances to the appeal site. Importantly, the Appellant has failed to address the Local Planning Authority’s assessment of these materially different planning applications at Paragraphs 8.51 to 8.55 of the Delegated Report.
- 6.52 Whilst Paragraph 6.7 of the Appellant’s Statement of Case suggests that the Good Design Guide and the NPPF do not prohibit the introduction of access roads to support infill or backland development opportunities, it is unreasonable to suggest that this justifies the appeal proposal in these site-specific circumstances, and this position fails to read the Development Plan and National Policy as a whole.
- 6.53 Page 42 of the Good Design Guide clearly states that:
- “Existing access arrangements should be used to serve new development where possible, to avoid unnecessarily ‘puncturing’ the character of the street scene and allowing highways to dominate.”*
- 6.54 As per Paragraph 8.23 of the Delegated Report, the appeal site and the western side of Rugby Road are largely characterised by mature vegetation and trees along the rear boundaries of residential gardens of properties along Greenmoor Road.

- 6.55 The provision of a dwelling and an access in this location incongruously punctures the character of the western side of Rugby Road with built form in an area where this is no such frontage for approximately half a kilometre. This does not reflect the urban grain of Greenmoor Road, nor the character of the western side of Rugby Road and is likely to result in the loss of the four trees along the site boundary, which significantly contribute to verdant character of the western side of Greenmoor Road.
- 6.56 By virtue of these factors, the appeal proposal fails to respect, complement or enhance the character of the western side of Rugby Road and is clearly in conflict with Policy 2 of the BNP, Policy DM10 of the SADMP, the Good Design Guide, and Section 12 of the NPPF.
- 6.57 Paragraph 6.15 of the Appellant's Statement of Case highlights that Policy 12 of the BNP is not cited within the Council's reasons for refusal. Policy 12 of the BNP refers to trees protected within a Tree Preservation Order (TPO) and therefore is not applicable to the appeal site.
- 6.58 Whilst the trees within the site are not considered to be important trees for the purposes of Policy 12 of the BNP because they are not protected by a TPO, that does not suggest that the trees are not important for their group contribution to the character of the area for the purposes of Policy 2 of the BNP and Policy DM10 of the SADMP.
- 6.59 At Paragraph 6.11 of their Statement of Case, the Appellant has questioned the Local Planning Authority's visual assessment of the development. It is evident that the main visual impact of the proposal shall be viewed from highly trafficked, classified 'B' road, Rugby Road. The Council strongly refute the suggestion that visual impact of the development would be, "*Low*."
- 6.60 The Appellant has also suggested that it is unreasonable for the Local Planning Authority to describe the proposed 4.25m wide access for the appeal proposal as being overengineered. This claim is rejected.
- 6.61 It should be noted that it was the Local Highway Authority that identified the proposed site access as, "*Over engineered*," in their consultation response from 17 April 2024. The Local Highway Authority confirmed that the proposed access is 1.5m wider than the minimum effective width for an access for a single dwelling as required at Figure DG17 of Part 3 of the Leicestershire Highway Design Guide. The Appellant did not refute the response of the Local Highway Authority, nor did they explain why the access was proposed to be this scale.
- 6.62 Whilst Paragraph 6.16 of the Appellant's Statement of Case refers to the 5m access for the three dwellings, which were approved via 22/00236/FUL, it is noted that the access for that development was existing and was immediately adjacent to a further existing access onto Rugby Road from Sketchley Hill House. Ultimately, the LHDG is clear that the minimum effective width of an access that serves two to five dwellings should be 4.25m.

- 6.63 Therefore, the development at Sketchley Hill House is not considered to be suitable justification for the overengineered access to this appeal development of a single dwelling.
- 6.64 However, Paragraph 6.10 of the Appellant's Statement of Case confirms that the current proposal has, "*The scope to unlock access to a number of similar sized rear gardens.*" The Appellant then goes on further to state in Paragraph 6.17 of their Statement of Case that if the appeal proposal is approved this shall allow for the, "*Comprehensive development,*" of the western side of Rugby Road. It is clear that the access is designed for more than the single dwelling that is the subject of this appeal.
- 6.65 This concern was raised by the Local Planning Authority at Paragraph 8.49 of the Delegated Report, which states that:
- "If this scheme was to be granted planning permission, this is very likely to lead to further residential development along this side of Rugby Road, which would completely transform the verdant character and unbuilt nature of the surrounding area and cause further significant harm."*
- 6.66 Whilst the future ambitions are not for consideration within the determination of this proposal, it is clear that the approval of this scheme is likely to result in further significant harm to the urban grain of Greenmoor Road and the western side of Rugby Road as well as the verdant character of this area, that is visually prominent from the highly trafficked 'B' road. This is not considered to have a, "*Low,*" visual impact on the character of the area, as suggested at Paragraph 6.11 of the Appellant's Statement of Case.
- 6.67 To summarise, the appeal proposal creates back land development in an area that is characterised by long residential gardens and mature vegetation associated with the properties along Greenmoor Road, which do not benefit from any form of access onto, Rugby Road. This results in a significant adverse impact on the prevailing urban grain of Greenmoor Road and the western side of Rugby Road, which causes harm to the character of the area. These impacts are also exacerbated due to the site's highly visually prominent location from the heavily trafficked classified 'B' road, Rugby Road.
- 6.68 This harm is heightened by the creation of an uncharacteristic and overengineered access onto Rugby Road, which significantly ruptures and diminishes the existing unbuilt character of the western side of Rugby Road. This results in the loss of existing trees that contribute significantly to the verdant character of the area.
- 6.69 Moreover, the Appellant has already highlighted the detrimental implications of approving this appeal proposal, which is likely to lead the further uncharacteristic overdevelopment of the western side of Rugby Road, the further detrimental loss of its verdant character, and further highway safety implications that were not reviewed by the Local Highway Authority within their assessment of one dwelling within this appeal proposal.

- 6.70 By virtue of these factors, the proposal results in significant, permanent, and detrimental impacts on the character and appearance of the surrounding area, which is contrary to, and in conflict with, the Good Design Guide (2020), Policy 2 of the Burbage Neighbourhood Plan (2021), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Section 12 of the National Planning Policy Framework (December 2023).

Planning Balance:

- 6.71 To summarise, Section 38 (6) of the Planning and Compensation Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 indicates that planning permission should be granted for development proposals that accord with the Development Plan unless material considerations indicate otherwise.
- 6.72 Whilst it is acknowledged that the Development Plan was adopted prior to the publication of the latest NPPF, as a result of the strong consistency with the wording of the NPPF, full weight should be given to the policies within the Development Plan, such as Policy DM10 of the SADMP, in accordance with Paragraph 225 of the NPPF. This has not been refuted by the Appellant.
- 6.73 As Paragraph 11(d) of the NPPF has been triggered, planning permission should be granted to development unless adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole. However, Paragraph 14 of the NPPF confirms that the adverse impacts of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh its benefits.
- 6.74 The Council can demonstrate a five-year supply of land for housing. As such, the benefit of one dwelling to the Borough's supply of housing land is considered to attract very limited weight in the planning balance.
- 6.75 The Appellant has suggested that the scheme provides social benefits in the form of providing a dwelling that meets the needs of a family and provides future occupants with high quality living standards.
- 6.76 Only access and layout are proposed for approval at this stage and therefore the design and the living standards of the development are not guaranteed and therefore this assumption carries very little weight in the planning balance. In addition, given the scale of the development, the benefits of providing one dwelling towards meeting the needs of families only attract limited weight in the planning balance.
- 6.77 The Appellant has referred to the economic benefits of the scheme, which the Appellant has referred to as, "*Temporary in duration and relatively small.*" Given the scale of the development, the Local Planning Authority strongly disagrees that significant weight should be given to this temporary, small, and ultimately limited benefit. This assessment was supported by the Inspector at Paragraph 52 of their

allowed decision for up to 225 dwellings at the Land off Desford Lane, Ratby (APP/K2420/W/23/3330774) (c.f. Appendix C).

- 6.78 Paragraph 6.42 of the Appellant's Statement suggests that significant weight should be given to the environmental benefits of the scheme. In the preceding paragraphs the Appellant suggests that these benefits include that a high-quality landscaping could come forward, that visual impact was only limited to the change that would occur down the access drive, and that the site should be considered a windfall site. Even by the most generous of interpretations this does not amount to a limited benefit, let alone the significant benefit that is suggested by the Appellant.
- 6.79 The Local Planning Authority strongly refutes the claim that taken as a whole, there are any environmental benefits to the proposal. The Appellant's assessment deliberately disregards the harm of the development on the environment, which The Local Planning Authority has set out both in the Delegated Report and this Statement of Case.
- 6.80 No other benefits of the proposal have been highlighted by the Appellant.
- 6.81 As detailed above, the appeal proposal results in significant, permanent, and detrimental impacts on the character and appearance of the surrounding area. Should this appeal be allowed, these adverse effects are likely to be heightened due to the potential for the comprehensive redevelopment of the western side of Rugby Road and the loss of its existing verdant character. Therefore, the proposal is contrary to, and in conflict with, the Good Design Guide (2020), Policy 2 of the Burbage Neighbourhood Plan (2021), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Section 12 of the National Planning Policy Framework (December 2023). This attracts significant weight in the planning balance.
- 6.82 In light of Paragraph 14 of the NPPF and the scheme's conflict with Policy 2 of the Burbage Neighbourhood Plan, the harm that results from the proposed development significantly and demonstrably outweighs the limited potential benefits of the scheme.
- 6.83 Notwithstanding Paragraph 14 of the NPPF, the proposal's harm to the character and appearance of the surrounding area is considered to significantly and demonstrably outweigh the potential benefits of the development of one dwelling in these site-specific circumstances.
- 6.84 There are no other material considerations to indicate that the proposal should be determined other than in accordance with the adopted Development Plan in this case. With regard to the information contained in this Statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed.

Costs:

- 6.85 As demonstrated within this Statement of Case and within the Delegated Report, the Local Planning Authority, in the proper exercise of their development management responsibilities, have determined the application in accordance with Planning Law. Therefore, the Local Planning Authority strongly refute the accusation that they have been substantively or procedural unreasonable during the processing of application 24/00275/OUT.
- 6.86 Moreover, the Council proactively raised their concerns with the proposal to the Appellant prior to the determination of the application on 12 April 2024 (c.f. Appendix D). As evident within Appendix C, the Appellant failed to respond to these concerns until they were chased by the Local Planning Authority for an update on 18 April 2024. This proactive engagement enabled the Appellant to submit further additional information and justification for their scheme via a Design and Access Statement, which they had not originally submitted as part of their planning application.
- 6.87 Notwithstanding the above, the Appellant has failed to appropriately respond to the Delegated Report's assessment of this appeal proposal and its justification within their Statement. The failure to address these comments, nor to rely on any other justification to support their appeal proposal is unreasonable and demonstrates why the scheme was refused in these site-specific circumstances.

7. CONCLUSION

- 7.1 To summarise, there are no other material considerations to indicate that the proposal should be determined other than in accordance with the adopted Development Plan in this case. With regard to the information contained in this Statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed.
- 7.2 However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the following conditions and reasons suggested below.

8. CONDITIONS

1. An application for approval of reserved matters shall be made within two years of the date of this permission and the development shall be begun not later than 18 months from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence until details of the scale, appearance, and landscaping, (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.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

- Block Plan 24 29 01 (submitted: 22.03.2024)
- Site Location Plan 24 29 02 (submitted: 22.03.2024)
- Site Plan 4006 (submitted: 22.03.2024)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No part of the development hereby permitted shall be occupied until such time as the access arrangements and vehicular visibility splays of 2.4 metres by 43 metres have been provided at the site access shown on Block Plan 24 29 01 (submitted: 22.03.2024) have been implemented in full. Once provided, 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 within the splays.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, and to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network in the interests of general highway safety and in accordance with the National Planning Policy Framework (December 2023).

5. No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/ verge/ highway and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of pedestrian safety and in accordance with the National Planning Policy Framework (December 2023).

6. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Block Plan 24 29 01 (submitted: 22.03.2024). Thereafter the onsite parking provision shall be kept available for such use(s) in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

7. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

8. No part of the development hereby permitted shall be occupied until such time as site drainage details have been provided to, and approved in writing by, the Local Planning Authority. Thereafter, surface water shall not drain into the Public Highway and thereafter shall be so maintained.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

9. Notwithstanding the provisions of Part 2 of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that Order), no vehicular access gates, barriers, bollards, chains, or other such obstructions shall be erected within a distance of 5 metres of the highway boundary and shall be inward opening only.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the Public Highway in accordance with the National Planning Policy Framework (December 2023).

10. Any forthcoming Reserved Matters application shall include details for the adequate provision for waste and recycling storage of containers and collection across the site. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

9. APPENDICES

9.1 (See separate documents)

9.2 **Appendix A:** Five Year Housing Land Supply (5YHLS) Statement:
1 April 2023 – 31 March 2028 (2024)

9.3 **Appendix B:** Appeal Decision – 65A Newbold Road, Barlestone

9.4 **Appendix C:** Appeal Decision – Land off Desford Road, Ratby

9.5 **Appendix D:** Local Planning Authority Engagement with Appellant