

Land off York Close, Market Bosworth

**Appeal against the refusal of a planning application submitted to
Hinckley and Bosworth Borough Council**

“Outline planning application for the erection of up to 100 dwellings (including 40% affordable housing) with public open space, landscaping, sustainable drainage system (SuDS), a vehicular access point and the demolition of one residential dwelling. All matters reserved except for means of access”

Appellant’s Statement of Case



July 2025

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EXECUTIVE SUMMARY

Introduction

- i. This Statement of Case ('SoC') relates to an appeal against the refusal of planning permission by Hinckley and Bosworth Borough Council ('HBBC or 'the Council') for an application made by Gladman Developments Ltd ('the Appellant') for a residential development on Land off York Close, Market Bosworth. The appeal proposals are for up to 100 dwellings, public open space, landscaping, sustainable drainage system (SuDS), a vehicular access point and the demolition of one dwelling (application reference: 24/00831/OUT).

The Development Plan

- ii. The starting point for assessing the appeal proposals in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 is the Development Plan. The Development Plan, as relevant to the appeal, comprises:
- Hinckley and Bosworth Core Strategy (2009)
 - Site Allocations and Development Management Policies DPD (2016)
 - Market Bosworth Neighbourhood Plan (2015)
 - Leicestershire Minerals and Waste Local Plan (2019)
- iii. The appeal proposals are in conformity with the majority of the Development Plan policies which are applicable to proposals. There is conflict with the policies, DM4, and CE5 however these policies are considered to be out of date, and therefore should be given limited weight within the planning balance. The Council themselves consider the settlement boundaries out of date, given that the housing requirement does not meet the needs of today, and therefore they are required to flex.

Other Material Considerations

- iv. Hinckley and Bosworth Borough Council are not currently able to demonstrate a five year housing land supply. The housing land supply is considered to be as low as 3.5 years.
- v. The emerging Local plan is at early stages of preparation, with the Council currently reviewing the position in regards to the authority's Local Housing Needs following the publication of the NPPF 2024. The emerging Local Plan should be given limited weight.

- vi. The emerging Market Bosworth Neighbourhood Plan is at more advanced stages in the plan making process with an Examiner's report being published. The Examiner has recommended the plan moves forward to referendum with some modifications. However, the modifications allow for flexibility to be provided to ensure that housing developments come forward, in light of not knowing the full extent of the housing need within the Town. It is acknowledged that Significant weight should be given to the Neighbourhood plan, however the proposals are supported by the flexibility provided within the emerging Neighbourhood plan.
- vii. The appeal site, other than being located outside of the settlement boundary for Market Bosworth, it is not subject to any further policy obstacles or technical objections that would prevent the application from being granted planning consent.

Conclusion

- viii. The Appellant considers that the proposals are in accordance with the majority of the Development Plan policies; those which the proposals are in conflict with are out of date and have limited weight by virtue of the Council being unable to demonstrate a 5 year housing land supply, and policies meeting out of date housing needs, by being based upon out of date settlement boundaries.
- ix. In accordance with paragraph 11 of the Framework, the development proposal clearly constitutes 'sustainable development'. The balance clearly tips in favour of granting planning permission. Subsequently the appeal should be allowed without delay.

1 INTRODUCTION

1.1 Appeal Proposals

- 1.1.1 This Statement of Case ('SoC'), submitted by Gladman Developments Ltd ('the Appellant') relates to an appeal against Hinckley and Bosworth Borough Council's ('HBBC' or 'the Council') refusal of the outline application 24/00831/OUT:

"Outline planning application for the erection of up to 100 dwellings (including 40% affordable housing) with public open space, landscaping, sustainable drainage system (SuDS), a vehicular access point and the demolition of one residential dwelling. All matters reserved except for means of access"

- 1.1.2 The plans which approval is sought, are the location plan(10352-FPCR-L-01) [CD 1.02] and the proposed access drawing (1764/17) [CD1.03]

1.2 The Site and Surroundings

- 1.2.1 The site comprises 5.61ha of land currently in agricultural use on the southern edge of Market Bosworth. The appeal site boundary is shown on the Site Location Plan [CD 1.02]
- 1.2.2 The site is located outside but adjacent to the adopted settlement boundary of Market Bosworth, which is identified as a Key Rural Centre as set out in policy 7 of the HBBC Core Strategy. Market Bosworth has a good range of services and facilities as well as good sustainable transport links. The Council recognise that Market Bosworth is a sustainable location and is a focus for growth.

A Sustainable Location for Housing

- 1.2.3 The site and its surroundings are not designated as Green Belt or Area of Outstanding Natural Beauty (AONB). The site itself is not the subject of landscape or environmental designations, nor does it comprise part of a 'valued landscape' in NPPF terms.
- 1.2.4 Market Bosworth is identified as a Key Rural Centre within the Core Strategy. The definition of a Key Rural Centre within the supporting text to Policy 7 of the HBCS, states that these settlements have at least a population of 15000, a primary school, a local shop, GP surgery, community facilities, and a 6 day bus service. Market Bosworth goes above this definition of a Key Rural Centre, with a secondary school, and a range of shops, restaurants and Cafés within the Town Centre.

- 1.2.5 The site is in close proximity to Market Bosworth Town Centre and has good pedestrian links to its services and facilities, including walking routes to the schools.
- 1.2.6 Technical work submitted with the planning application [CD1 and CD2] demonstrates that the site represents a suitable and sustainable location for residential development, subject to specific details being secured by planning condition and/or through a Section 106 legal agreement.
- 1.2.7 The Council does not object to the proposals on from a locational sustainability perspective and there have been no other technical objections (see table 1).

1.3 Application Process

Application submission

- 1.3.1 The outline planning application for the proposed development was submitted on 28th August 2024 and was validated by Hinckley and Bosworth Borough Council on 5th September 2024. The planning application was supported by a comprehensive suite of technical reports and supporting documents [CD1 and CD2] in accordance with the Council's planning application validation requirements.
- 1.3.2 The statutory 13-week determination period for the application as per the validation letter was 2nd December 2024. Prior to the statutory date, the Appellant and Case Officer agreed to an extension of time until 31st January 2025, and a further extension until 28th February 2025 in order for outstanding consultation responses to be received and, if necessary, responded to. Subsequently an additional extension was agreed until 18th June, to allow the application to be heard at planning committee.
- 1.3.3 The application was reported to committee on 17th June 2025, with a decision being published on 18th June 2025 [CD5.02]. The application was refused with 2 reasons for refusal. The reasons for refusal were on the basis of impact on residential amenity of residents on York Close and the lack of a S106. The reasons for refusal have been address in section 5 of this statement.
- 1.3.4 The application submission followed a dismissed appeal on the appeal site from 17th August 2023 (APP/K2420/W/23/3317090). The dismissed appeal was located on the appeal site, for a proposal of 125 dwellings. The application submitted sort to address the concerns raised by the Inspector. The new proposal gains access off York Close, rather than off Shenton Lane, with development also removed from the field adjacent to Shenton Lane, this area is kept as open space. The dismissed appeal is addressed in Section 2 below and the consideration of

other material considerations in Section 4. The application dealt with the objections from the appeal and addressed any consultation responses.

Consultee Responses

1.3.5 Table 1 lists the statutory consultee responses received during the application process.

Table 1: Statutory consultee responses

CD Ref.	Consultee	Response Date	Comments	GDL response
3.01	Environment Agency	05/09/2024	The EA confirmed the site lies within Flood Zone 1 and there are no constraints that would lie within the remit of the EA.	Noted
3.02	Fire and Rescue Service	05/09/2024	No comment from Fire and Rescue Service.	Noted
3.03	Coal Authority	6/9/2024	The site is not located within a coal field and therefore there are no specific comments to make.	Noted
3.04	Environmental Health	6/9/2024	It was recommended that a fence should be included alongside the western boundary as well as the eastern boundary of the access road. Conditions are suggested in relation to a construction environmental management plan, noise and contaminated land.	GDL agreed that a fence could be included along the access road.
3.05	Affordable Housing	13/09/2024	Confirms that Policy 15 of the Core Strategy sets out a requirement of 40% affordable homes to be provided onsite. A suggested housing mix is outlined as part of the response.	40% affordable housing will be provided on site. The affordable housing will be secured through the S106.
3.06	HBBC drainage	17/09/2024	No objection subject to conditions.	Noted
3.07	Ecology	24/09/2024	Holding Objection. Further information was required regarding	Gladman submitted an updated ecology report [CD 2.02] that addressed

CD Ref.	Consultee	Response Date	Comments	GDL response
			biodiversity net gain and a bat survey report.	the comments on 20/12/2024
3.08	Waste Services	28/09/2024	Conditions suggested regarding waste collection	Noted
3.09	LCC minerals	26/09/2024	The proposed development is in line with Policy M11 of the Leicestershire Minerals and Waste Local Plan (2019), as the mineral concerned is no longer of any value or potential.	Noted
3.10	Archaeology	23/10/2024	It is noted that ridge and furrow is present onsite. The officer recommends further trial trenching which should be secured via condition.	Noted
3.11	LCC Highways	14/11/2024	The LHA required additional information on: Swept path analysis, RSA1 to be submitted, additional trip distribution of new one-way system, consideration of committed development, consideration of extending bus service 153.	An additional Transport Assessment [CD2.04] was submitted on 20/12/2024
3.12	Market Bosworth Society	24/12/2024	Market Bosworth Society does not wish to see any exits onto Shenton Lane.	The emergency access off Shenton Lane has been removed.
3.13	Market Bosworth Parish Council	08/01/2025	Objection. Concerned over the additional documents submitted during the course of the determination process. Emergency access on to Shenton Lane should be removed.	Gladman submitted the additional documents to the case officer to respond to the comments raised by consultees. Ecology and highways both requesting further information. The Case Officer reconsulted on the additional documents. The emergency access off Shenton Lane has been removed.

CD Ref.	Consultee	Response Date	Comments	GDL response
3.14	Additional Ecology Comments	13/01/2025	Conditions recommended. - A BNG condition has been suggested. - A method statement for bat mitigation	Noted
3.15	Dadlington and Sutton Cheney Parish Council	14/01/2025	Concerns raised regarding existing highways infrastructure, and existing flooding problems.	LCC highways and HBBC drainage officer do not have any objection to the scheme.
3.16	Conservation Officer	19/02/2025	The officer agrees with the conclusion of the heritage report. The public benefits should be weighed against the heritage harm.	Noted. A heritage balance in accordance with paragraph 215 is undertaken prior to the planning balance.
3.17	Additional LCC Highways Comments	27/02/2025	No objection subject to conditions and planning obligations.	Noted.

1.3.6 Table 1 highlights that there are no matters subject to outstanding technical objections from statutory consultees. Both Ecology and Highways initially required additional information, and once further information was provided, the Officer's had no objection subject to planning conditions and/or planning obligations being secured.

1.3.7 The Appellant is agreeable to securing the requested financial contributions, subject to CIL compliance, through a Section 106 legal agreement.

1.4 Reasons for Refusal

1.4.1 Notwithstanding that there were no technical objections to the planning application, the Council elected to refuse the application submission for the following reasons for refusal:

1. The contrived proposed access results in very significant harm to the residential amenity of residents of York Close as a result of the change in character of the Close, noise and general disturbance which, when afforded very significant weight alongside the other negative impacts of the proposed development, significantly and demonstrably outweigh the benefits of the proposal. The development is contrary to

Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document and Chapter 12 of the National Planning Policy Framework (2024).

2. The applicant has not entered into a Section 106 contributions for the delivery of Affordable Housing and public open space or contributions towards highways, health, education, waste services and libraries. As such the application is considered contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.

- 1.4.2 The reasons for refusal are dealt with throughout this statement, with the Development Plan and any policy conflict being dealt within in section 3, and the reasons for refusal being addressed in section 5.

2 PLANNING HISTORY

2.1 Previous Appeal Decision

- 2.1.1 An outline planning application for 125 homes was submitted to the HBBC on 18th February 2022 (Reference: 22/00167/OUT). The application was then appealed against non-determination, with an inquiry being held in July 2023 and a decision being published on 17th August 2023. The appeal decision can be found CD 6.01.
- 2.1.2 This proposal has subsequently changed from the previous scheme that was subject to appeal. The proposals directly respond to the Inspector's comments.
- 2.1.3 The harms raised by the Inspector were due to the access point of Shenton Lane, the highway works associated with this, and development within the field adjacent to Shenton Lane. The proposed access point and accompanying highway improvements were stated to alter the character of the rural nature of Shenton Lane, and in turn the character of Market Bosworth, albeit they were acceptable from a highway design perspective.
- 2.1.4 Despite coming to this view, the Inspector came to the conclusion that the development on the larger field (that being proposed through this appeal), is well contained, and would have a negligible effect on the character of Market Bosworth. The proposals were also deemed acceptable in all other respects.
- 2.1.5 The planning position for the current proposal has not drastically changed since August 2023. The adopted Local Plan remains the same, albeit 2 years further into the plan period. The Council remain unable to demonstrate a 5 year housing land supply, and the policies most important for determining the appeal are out of date.
- 2.1.6 However, it is important to note that the NPPF December 2024 has been published since the previous appeal decision.
- 2.1.7 Further commentary on the appeal decision can be found within the material consideration section.

3 THE DEVELOPMENT PLAN

3.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. Section 39 of the Act requires decision makers to exercise their functions with the objective of contributing to the achievement of sustainable development.

3.1.2 The adopted Development Plan, as applicable to the determination of the appeal application, consists of:

- Hinckley and Bosworth Core Strategy (2009) (HBCS)
- Site Allocations and Development Management Policies DPD (2016) (SADMP)
- Market Bosworth Neighbourhood Plan (2015) (MBNP)
- Leicestershire Minerals and Waste Local Plan (2019)

3.1.3 The following section will analyse the degree to which the proposal is in accordance with the relevant policies of the Development Plan and the extent to which these policies are consistent with the Framework.

3.2 Most Important Policies

3.2.1 The Appellant considers that the most important policies for the purpose of paragraph 11 of the framework are:

- Policy 7 – Key Rural Centres;
- Policy 11 – Key Rural centres- standalone;
- DM4 - safeguarding the countryside and settlement separation;
- DM10 – Development and Design ; and
- CE5 - Landscape of the Wider Parish

3.2.2 The some of the most important policies for determining the application are considered to be out of date, this includes Policy 7, Policy 11, DM 4 and CE5. These policies are considered to be out of date, due to the fact that there were based upon the spatial strategy and housing requirements of the revoked East Midlands Regional Plan, which did not seek to meet the needs of today. DM10 is not considered to be out of date, and would attract full weight however the proposal is not in conflict with DM10.

- 3.2.3 Furthermore, the policies are also considered to be out of date as per footnote 8 of the framework as HBBC cannot demonstrate a five year supply of housing. Therefore, the tilted balance within paragraph 11 should be engaged.

3.3 Hinckley and Bosworth Core Strategy

- 3.3.1 The Hinckley and Bosworth Core Strategy was adopted in 2009 and set the strategic policies for the period between 2006-2026. The HBCS was prepared in accordance with the East Midlands Regional Plan (EMRP) which is now revoked. The housing requirement was set based on the EMRP, which in turned informed the overall development strategy within the HBCS.
- 3.3.2 The reasons for refusal identify that the proposal is contrary to policy DM10 of the SADMP, and Policy 19 of the HBCS. No other policies were cited within the reasons for refusal, however, for completeness, an assessment against other policies of the Development Plan that are deemed relevant to development principles and the proposals have been provided below.

Policy 7: Key Rural Centres

- 3.3.3 Policy 7 identifies Market Bosworth as a Key Rural Centre. The Key Rural Centres have been identified to have a population of over 15,000, and have services such as a GP surgery, primary school, local shop, community facilities, and a 6 day bus service.
- 3.3.4 To ensure that the Key Rural Centres and their services are supported the policy states that the Council will support housing development within their settlement boundaries.
- 3.3.5 It is important to note that the settlement boundaries were set to support a lower housing requirement. The Council itself notes that the settlement boundaries are not fit for purpose, and they have flexed to meet the housing needs within the district. Policy 7 is out of date due to the fact that the Council cannot demonstrate a five-year housing land supply, and the housing requirement does not meet the current housing needs. The Council accept that to meet the needs of the Borough, and have relied on sites coming forward outside of the settlement boundary to try to achieve a five year supply of housing. The Settlement boundaries have been allowed to flex and development must be approved on sites outside of the development boundary for the Council to deliver the housing it needs. Policy 7 is out of date.
- 3.3.6 In the context of the settlement boundaries having been set in accordance with the EMRP and in the context of the Council being unable to demonstrate a five year supply of housing. policy 7 should be given limited weight in the decision making process.

Policy 11: Key Rural Centres Stand Alone

- 3.3.7 Derived from the spatial strategy, this policy covers the Key Rural Centres not located on the edge of Leicester, or within the National Forest. The focus of these settlement is to consolidate services to support the wider rural hinterland.
- 3.3.8 The policy itself identifies that a minimum of 100 dwellings should be allocated to Market Bosworth in accordance with policy 15 and 16 of the HBCS. The policy goes on to state additional aspirations for the settlement which would go towards supporting the local infrastructure. It is important to note that the policy identifies the requirement as a minimum figure and the Council does not object to higher numbers coming forward in the settlement to meet its current needs.
- 3.3.9 Policy 11 has been identified as one of the most important policies, however it is considered to be out of date. The appeal proposal would be contrary to policy 11 given that the site is located within the countryside and has not come forward as an allocation within the SADMP. However, policy 11 is considered to be out of date given that the Council cannot demonstrate a five-year housing land supply, and the delivery of more than 100 homes in Market Bosworth is required to meet the housing needs of today. The Council have seemed to have agreed within this strategy given that a number of proposals have been approved within the countryside in other Key Rural Centres and the allocation itself is coming forward for more than the 100 dwellings identified within the policy.
- 3.3.10 One of the bullet points within the policy relates to keeping a finger of green which goes towards Market Place in the centre of Market Bosworth to protect the character of the Town. The previous appeal [CD6.01] dealt within the impact on the character of Market Bosworth, with the decision clearly stating that:

*' the development of the larger field would result in development that is well contained and would not intrude significantly into the countryside surrounding the town. Moreover, the development of the larger field would have a negligible effect on the character and appearance of Market Bosworth.'*¹

1 CD6.01 Appeal ref: App/K2420/W/23/3317090, paragraph 18

- 3.3.11 The LVIA [CD1.08] which has supported this application reviews the position with regards to the changes made to the proposal, and concludes that overall, there would not be an unacceptable adverse impact on the landscape and character of Market Bosworth.

Policy 14: Rural Areas: Transport

- 3.3.12 Policy 14 sets out that accessibility within rural areas should be supported by a number of measures including ensuring there is a high quality public transport network between key rural centres and the nearest urban centre, and the delivery of cycle paths. The policy states that developers should provide contributions where the proposals meet national guidance.
- 3.3.13 Market Bosworth has an hourly bus service running between the Market Place in Market Bosworth, Leicester. There are good walking routes to the bus stops on Market Place, which would ensure that the development is accessible for public transport.
- 3.3.14 The scheme would support public transport by providing 2 six-month bus passes per house. This contribution would promote the use of the bus service and provide support for it.
- 3.3.15 Leicestershire County Council (LCC), have requested a contribution to extending the 153 bus service along Station Road, however this is not considered CIL compliant due to the accessibility of the bus stop on Market Place to the site.
- 3.3.16 The proposal would accord with policy 14. HBBC or LCC have not objected to the proposal in respect to the provision of public transport in the area.

Policy 15: Affordable Housing

- 3.3.17 Policy 15 identifies that developments of 4 or more dwellings should provide 40% affordable housing within rural areas. The proposed development would be classed as being within a rural area as stated within this policy, and would provide 40% affordable housing on site.
- 3.3.18 The affordable housing will be secured through a S106 agreement.

Policy 16: Housing Density, Mix and Design

- 3.3.19 Policy 16 requires developments of 10 or more to have a mix housing tenures and types, and deliver at least 30 dwellings per hectare within Key Rural Centres.
- 3.3.20 The exact housing mix will be for approval at reserved matters stage. The proposal will deliver at least 34 dwellings per hectare.

Policy 19: Green Space and Play provision

- 3.3.21 Policy 19, sets out the standards for open space and play provision that should be provided onsite, and the accessibility to different types of green space.
- 3.3.22 The proposal would deliver 2.7ha of open space, which includes an equipped play space (LEAP), informal public open space and footpaths. The proposal would accord with the requirements set out within policy 19.

3.4 Site Allocations and Development Management Policies DPD

- 3.4.1 The SADMP was adopted in July 2016 and was based upon the HBCS. The plan makes allocations to meet the requirement set out within the HBCS, and the development management policies also seek to meet the requirements and strategy of the HBCS, all of which were based upon the revoked EMRP. The relevant policies of the SADMP are as follows:

DM 1: Presumption in Sustainable Development

- 3.4.2 DM1 sets out that the Council will approve applications when the proposals are in accordance with the policies of the Development Plan. Where there are no policies relevant to the proposal or the policies are considered out of date the proposal should be approved subject to material considerations, unless the adverse impacts significantly and demonstrably outweigh the benefits.
- 3.4.3 The appeal proposals accord with Policy DM1 given that the relevant policies of the plan are considered to be out of date, by the virtue of HBBC being unable to demonstrate a five year housing land supply. As demonstrated within this hearing statement the harms of the proposals would not significantly and demonstrably outweigh the benefits and the proposal would constitute sustainable development and therefore the test within DM1 would be passed.

DM4: safeguarding the countryside and settlement separation

- 3.4.4 DM4 identifies the settlement boundaries by defining the Countryside. The policy identifies what development it considers to be sustainable within the countryside which includes outdoor sports, changes of use development, and development that supports the rural economy. The policy seeks to protect the intrinsic character and beauty of the countryside. The Council seek to apply this policy as a blanket protection to the countryside, which is not consistent with the NPPF.

3.4.5 Policy DM4 should be considered to be out of date, given that the NPPF states within paragraph 187 that we should look to 'recognise' the character and beauty of the countryside, and that valued landscapes should be 'protected'. Policy DM4 is inconsistent with this wording.

3.4.6 In addition, DM4 must be read in the context of the lack of a housing land supply, and the fact that the housing requirement was not set to meet the needs of today. The Council have approved sustainable housing developments within the countryside as the development boundaries have had to flex to meet today's needs. The Council accept that it is the case that the settlement boundaries need to flex to meet current housing needs.

3.4.7 Limited weight should be given to the conflict with DM4.

DM6: Enhancing Biodiversity and Geological Interest

3.4.8 Policy DM6 seeks to ensure that natural conservation and geological enhancements are made onsite. Major developments must provide measures to provide biodiversity gains.

3.4.9 This policy was drafted prior to the requirement for developments to provide 10% biodiversity net gain (BNG). The proposal will ensure a 10% BNG will be achieved with on-site gain measures which will be supplemented with off-site enhancements. This will be secured through a condition.

DM7: Preventing Pollution and Flooding

3.4.10 Policy DM7 states that adverse impacts from pollution and flooding should be prevented. The policy goes on to list a number of actions to ensure that there are not any adverse impacts from pollution and flooding.

The appeal proposals would not have any adverse impacts from flooding and pollution. A flood risk assessment was submitted as part of the application which demonstrates that there would be no adverse impacts from flooding on-site or elsewhere. There has been no objection from the lead local flood authority.

DM10: Development and Design

3.4.11 Policy DM10 outlines that development will be permitted provided that the development would not have adverse impacts on the privacy and amenity of nearby residents, the occupiers of the proposed development would not be adversely impacted by activities in the vicinity of the site, the site complements or enhances the character of the surrounding area, building materials would respect surrounding materials, high standards of landscaping would be incorporated into the design, opportunities for conservation of low energy and resources are

incorporated into the design, low emissions charging points are included, sustainable drainage schemes are included within the design and natural surveillance and secured by design principles are used.

- 3.4.12 HBBC have identified a conflict with this policy based upon the impact on neighbouring properties to the access point. Gladman do not agree that the development would adversely impact the nearby residents and in turn the proposals would comply with the policy.
- 3.4.13 As part of the application Gladman submitted a number of technical reports which have undertaken impact assessments on the surrounding properties. Alongside this the Environmental Health Officer has responded to the application and did not have an objection.
- 3.4.14 There will be additional cars along York Close which will bring with them more noise however it is not considered that this would bring about an adverse impact. The road design would be similar to that of any other estate road which takes cars between two houses. The proposals would not change the character of York Close, it would seek to extend the housing estate.
- 3.4.15 The access has been deemed to be acceptable from a highway safety aspect, and there has been no objection from LCC on highways safety.
- 3.4.16 Gladman contend that there is no technical reasoning behind HBBC's suggested conflict with this policy. Gladman does not believe there is an adverse impact in respect of the Council's 1st Reason for Refusal and the proposals would comply with policy DM10.

DM11: Protecting and Enhancing the Historic Environment, DM12: Heritage Assets and DM13 Preserving the Boroughs Archaeology

- 3.4.17 DM11, DM12, and DM13 all deal with heritage and archaeology. The three policies are best read together. Policy DM11 states that developments that have a potential effect on heritage assets must demonstrate an understanding of the significance of the heritage asset and the potential impact on the significance of the heritage asset. The proposal must demonstrate that the benefits of the proposal of the scheme must outweigh the harms to the heritage asset.
- 3.4.18 DM12 links back to DM11 stating that all developments affecting heritage assets must satisfy DM11, it then goes to look at each type of heritage asset in turn. In relation to Conservation Areas, development proposals should ensure they seek to preserve and enhance the significance of the Conservation Area.

- 3.4.19 DM13 deals with archaeology, and states that where proposals would have the potential to impact archaeology then appropriate field evaluation should take place.
- 3.4.20 The Heritage Assessment submitted with the application identifies that the proposal would have less than substantial harm at the lower most end of the spectrum to Market Bosworth Conservation Area. Through undertaking a balancing exercise in accordance with paragraph 215 of the NPPF and DM11, the benefits of the scheme outweigh the heritage harm.
- 3.4.21 The site contains ridge and furrow that has been considered a non-designated heritage asset of lower significance, with only minor harm occurring to this significance. There was no below ground archaeology recorded as part of the trial trenching that has been undertaken for the site.
- 3.4.22 Overall, the proposals are deemed to accord with policies DM11, DM12, and DM13. The impact to the significance to the heritage assets have been considered and the relevant balancing exercises have taken place, and it is considered that the benefits outweigh the harms.

DM17: Highways and Transportation

- 3.4.23 DM17 states that developments should ensure that best use of public transport is made, safe walking and cycling facilities are available, there is no adverse impact on highways safety, developments should be located where the need of travel is minimised, and cumulative impacts should be considered.
- 3.4.24 The proposal does not have any adverse impacts on highways safety when considered alone and in combination with other developments within Market Bosworth. Leicestershire County Council have raised no objection subject to conditions and obligations.
- 3.4.25 The site is sustainably located with good pedestrian and cycle links. The site is well served by bus with bus services running from Market Place. HBBC and LCC did not have any objections based on highways safety or accessibility. Future residents would have access to a good range of services and facilities accessible by sustainable modes of travel.
- 3.4.26 The proposal is in accordance with policy DM17.

3.5 Market Bosworth Neighbourhood Plan

- 3.5.1 The Market Bosworth Neighbourhood Plan is part of the Development Plan and was adopted in 2015. The adoption of the Neighbourhood plan was prior to the adoption of the SADMP,

however both were running side by side in preparation. The Neighbourhood Plan allocated the same site as the SADMP, and did not propose to make any of its own allocations.

- 3.5.2 The Council do not cite any conflict with any neighbourhood plan policies within the reasons for refusal however the relevant policies of the MBNP are as follows:

Policy CE1: Character and Environment

- 3.5.3 Policy CE1 outlines that all proposal within Market Bosworth should be in keeping with its Character Area. The proposed development is adjacent to character area D – suburban residential. The proposed development would be in keeping with this character area as an expansion of the main residential area of Market Bosworth.

Policy CE3: Important Views and Vistas

- 3.5.4 Policy CE3 states that developments that harm important views and vistas will be resisted. The proposed development does not harm any of the important views and vistas identified within the Neighbourhood Plan. It is important to note that whilst there is a view identified along Shenton Lane, through the appeal proposals no development is proposed within this area and the view would not be harmed.

Policy CE5: Landscape of the Wider Parish

- 3.5.5 Policy CE5 states that development within the open countryside outside of the Market Bosworth settlement boundary will only be permitted where it contributes to the local economy, is for the re-use or extension of an existing building, for sport or recreation, or is a rural exception housing site.
- 3.5.6 The proposed scheme will be located outside of the Market Bosworth settlement boundary. The scheme would bring within it a number of local economic benefits, however given the wording of the policy I do not believe the proposed development is intended to be within that criteria given that new dwellings are stated as being acceptable where satisfying old paragraph 55 of the NPPF (now paragraph 82). It is therefore acknowledged that the proposals would be in conflict with Policy CE5 in principle.
- 3.5.7 However, in common with Policy DM4, given that HBBC cannot demonstrate a five year housing land supply, this policy must be considered out of date. This policy should also be considered to be out of date, as it was drafted on the basis of a housing requirement that does not meet today's needs. The Council have acknowledged that the settlement boundaries need to be flexed to deliver the much needed housing within Market Bosworth. The policy

also seeks to conserve and enhance the countryside rather than recognising the intrinsic beauty of the countryside as set out within the framework.

- 3.5.8 In coming to this view, it is noted that Policy CE5 only relates to the Market Bosworth NP area. However, in the absence of a five-year housing land supply, the policy has the ability to constrain development outside of the MB settlement boundary, which in turn has the ability to constrain housing delivery in the borough overall.
- 3.5.9 The conflict with this policy should be given limited weight in the planning balance.

Policy BD1: Affordable Housing

- 3.5.10 Policy BD1 states that all housing developments over 11 dwelling should provide 40% affordable housing. The proposal would deliver 40% affordable housing on site and would comply with the policy. Affordable housing will be secured through the S106 agreement.
- 3.5.11 The Market Bosworth Neighbourhood Plan is now 10 years old, and does not make any allocations (as set out in paragraph 69/70) and therefore purposes of paragraph 14 of the framework would allow for the presumption in sustainable development of paragraph 11d be applied.

3.6 Conclusion

- 3.6.1 It has been identified that there is conflict with policies DM4 of the SADMP and CE5 of the Market Bosworth Neighbourhood plan. These policies are considered to be out of date, as they constrain development based upon out of date settlement boundaries. Therefore, limited weight should be given to the conflict in the planning balance.
- 3.6.2 Policy DM10 is cited within the reasons for refusal, however the proposals do not conflict with this policy as there would not be any adverse impacts on the amenity of neighbouring properties.
- 3.6.3 Furthermore, the policies are also considered to be out of date as per footnote 8 of the framework as HBBC cannot demonstrate a five year supply of housing. Therefore, the tilted balance within paragraph 11 should be engaged.

4 MATERIAL CONSIDERATIONS

4.1 Introduction

4.1.1 Planning law requires that applications are determined in accordance with the Development Plan unless material considerations indicate otherwise.

4.1.2 Material considerations relevant to this appeal include:

- National Planning Policy Framework;
- Planning practice guidance (PPG);
- The Local Plan Review;
- The Market Bosworth Neighbourhood Plan review;
- The Council's housing land supply position and delivery;
- The affordability of housing in Hinckley and Bosworth;
- The provision of affordable housing in Hinckley and Bosworth;
- Economic recovery and the benefits of housing;
- Delivery of housing within five years;
- The previous appeal decision on the site; and
- Third party representations.

4.2 National Planning Policy Framework

4.2.1 The latest version of the Framework was published on 12th December 2024. Paragraph 2 of the Framework sets out that it is an important material consideration in the determination of planning applications. Paragraph 61 references the Government's continued objective of significantly boosting the supply of homes. This hearing statement demonstrates that the appeal proposal responds to this national policy ambition and represents sustainable development.

4.2.2 Appendix 1 to this SoC considers in detail the appeal scheme's conformity with the relevant provision of the NPPF. In summary, the assessment in Appendix 1 confirms that the proposals comprise 'sustainable development' as a result of:

- Providing a deliverable housing development that will make a valuable contribution towards national and local objectives for economic growth;
- Benefitting from a real choice of sustainable transport modes, promoted through a Travel Plan;

- Making a valuable contribution towards meeting the five-year housing land supply requirement in the HBBC area;
- Contributing towards housing choice and the mix of housing in the area, making effective use of land and making a contribution towards meeting affordable housing needs;
- Being capable of delivering beautiful design;
- Promoting healthy communities through integration with the existing settlement and the provision of open space;
- Being located on land at low risk of flooding and ensuring that the development will not increase flood risk downstream;
- Being resilient to the challenge of climate change; and
- Conserving and enhancing the natural and historic environments.

Written Ministerial Statement made 30th July 2024: “Building the Home We Need”

- 4.2.3 Angela Raynor, Deputy Prime Minister and Secretary of State (SoS) for Housing Communities and Local Government made a Written Ministerial Statement (WMS) on 30th July titled “Building the Homes We Need”.
- 4.2.4 It is well-established that a WMS is a material consideration: *R (oao) Cala Homes (South) Ltd v Secretary of State for Communities and Local Government* [2011] EWHC 97 per Lindblom J, as he then was, confirmed by the Court of Appeal ([2011] EWCA Civ 639, per Sullivan LJ with whom Rix and Rimer LJ agreed). This was in the context of the WMS and Chief Planner’s letter announcing the intention to abolish Regional Spatial Strategies. Lindblom J held at [52] that “Because planning decision-making is a process informed by policy, prospective changes to the policy framework itself may logically be seen as relevant to a planning decision. They engage the public interest. And they are germane to the character and the use of land.”
- 4.2.5 The clear terms of the WMS are a statement of the Government’s policy. This is to be distinguished from the detailed amendments to the NPPF on which there is currently a consultation. The WMS is not going to change. It is a clear statement of Government policy for the use and development of land.
- 4.2.6 Significant weight should be given to the WMS for the following reasons.
- 4.2.7 Of direct relevance to the appeal is the clear tone in central Government’s commitment to improving affordability, turbocharging growth and building the 1.5 million homes they have

committed to deliver over the next five years. This statement reaffirms that the country is in “the most acute housing crisis in living memory.” This supports the Appellant’s evidence submitted as part of this statement.

4.2.8 The WMS made clear that the Government were seeking to strengthening the general presumption in favour of sustainable development contained at paragraph 11 of the NPPF, again outlining their strong commitment to ensuring that planning permission is granted on suitable sites in sustainable locations. This goes to the heart of the Appellant’s case: the appeal scheme is situated in a location where people want to live, work and have the option to travel easily to access both amenities in Market Bosworth and wider destinations by sustainable modes of travel. The appeal proposals would represent sustainable development in social, economic and environmental terms.

4.2.9 In addition to the WMS, the SoS issued a letter to all local authority Leaders and Chief Executives dated 30th July 2024, within this letter the Government made plain their determination to address the housing crisis head on:

“As the Leaders and Chief Executives of England’s local authorities, you know how dire the situation has become and the depth of the housing crisis in which we find ourselves as a nation. You see it as you place record numbers of homeless children in temporary accommodation; as you grapple with waiting lists for social housing getting longer and longer; and as your younger residents are priced out of home ownership.

It is because of this I know that, like every member of the Government, you will feel not just a professional responsibility but a moral obligation to see more homes built. To take the tough choices necessary to fix the foundations of our housing system. And we will only succeed in this shared mission if we work together – because it falls to you and your authorities not only to plan for the houses we need, but also to deliver the affordable and social housing that can provide working families with a route to a secure home.”

4.2.10 The delivery of up to 100 new homes, up to 40 (40%) of which will be affordable and can be delivered in the immediate short term, should therefore be considered with this wider political context. The 30th July WMS is clear in its conclusion that **“There is no time to waste. It is time to get on with building 1.5 million homes”**. The appeal proposals wholly accord with

tone of the new Government policy as set out in the WMS; the building of new homes is crucial in achieving the stability, investment and reform the country is now striving to achieve.

- 4.2.11 It is in this context that the Appellant considers significant weight should be accorded to the content of the WMS, particularly its tone and direction indicating that sustainable developments are to be supported immediately and to enable delivery as quickly as possible.

Written Ministerial Statement – 12th December 2024 'Building the homes we need'

- 4.2.12 Alongside the publication of the December 2024 NPPF Matthew Pennycook, Minister for Housing and Planning, published a further WMS that outlines the 'acute and entrenched housing crisis' and the need for new homes to tackle the problem, and help those in unsuitable temporary accommodation.
- 4.2.13 The Government reiterates the target of building 1.5 million homes in the parliamentary term, and in doing so explains the increase in housing targets and the mandatory use of the stock based standard method, in order to deliver 370,000 homes nationally per year.
- 4.2.14 The WMS shows the commitment of the Government to deliver housing to help meet the housing needs across the Country. The WMS sets out the reasoning behind the changes to the NPPF and reverses some of the anti-housing supply policies of the previous NPPF.
- 4.2.15 The Government wants to see the delivery of homes, especially the delivery of affordable homes. The WMS explains how the presumption in favour of sustainable development is strengthened, with the statement saying that the

"presumption in favour of sustainable development must have real teeth. The changes we make today ensure that the presumption carries real weight, acting as a significant adjustment to the decision-making balance in favour of approving development."

- 4.2.16 The appeal proposals would help contribute to the national target of 370,000 homes and deliver much needed affordable homes. The presumption in favour of sustainable development applies in this case and should be applied within rigour.

Conclusion

- 4.2.17 These documents clearly indicate the ideas advocated by the Government at utmost pace and support the necessity of approving sustainable proposals immediately. The changes also add further impetus to the benefits relied upon by the Appellant.

- 4.2.18 In this instance the delivery of affordable and market housing, economic benefits, a scheme of high quality design with significant areas of public open space and a children's play area, all located in a highly sustainable location, should not be delayed.

4.3 Hinckley and Bosworth Local Plan Review

- 4.3.1 Paragraph 49 of the Framework advises that local planning authorities can give weight to relevant policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections and the degree of consistency with the Framework.
- 4.3.2 At the time of writing, the Hinckley and Bosworth Local Plan Review (HBLPR) is at a relatively early stage of preparation. HBBC have undertaken a number of rounds of consultation on the Local Plan review, the plan reached regulation 19 in 2022, however the plan underwent a further regulation 18 consultation in the summer of 2024.
- 4.3.3 The Council have reviewed their strategy in light of the NPPF changes and have proposed that they would undertake a further regulation 18 consultation in September 2025.
- 4.3.4 The Local Development Scheme illustrates that the Council intends to adopt the Local Plan Review in late 2027.
- 4.3.5 The latest draft of the HBLPR identifies a housing requirement of 13,862 dwellings over the plan period 2020-2041. Market Bosworth is identified as a Key Rural Centre, and the regulation 18 version of the plan sort to allocate 180 dwellings which is a phase 2 to the allocation within the SADMP. Notably, the regulation 18 plan did not allocate any sites under 100 dwellings, these sites were to be allocated in the regulation 19 version of the plan.
- 4.3.6 Following the publication of the NPPF in December 2024, the Council are reviewing their strategy and will publish a further regulation 18 consultation in September 2025.
- 4.3.7 In accordance with paragraph 48 of the NPPF, at this stage of preparation very limited weight should be attributed to the emerging Local Plan Review in the consideration of the appeal.

4.4 The Draft Market Bosworth Neighbourhood Plan Review

- 4.4.1 The draft Market Bosworth Neighbourhood Plan Review was submitted for examination in January 2025. An examiner has been appointed, and an examiners report has now been published. The examiner has recommended that the plan goes forward to referendum with a number of modifications.

- 4.4.2 The recommendations include a focus of providing flexibility to deliver housing, given the unknown position regarding the housing need within the Neighbourhood Plan area, due to Leicester City Council's unmet need and the emerging Hinckley and Bosworth Local Plan.
- 4.4.3 The policies within the emerging neighbourhood plan that are relevant to the site are as follows:
- Policy DC1 – Design Codes
 - Policy CE1 – Character Areas
 - Policy CE3 – Important Views and Vistas
 - Policy CE5 – Landscape of the Wider Parish
 - Policy CE6 – Provision for Wildlife in New Developments
 - Policy BD1 – Affordable Housing
 - Policy BD4 – Heritage Asset Protection
- 4.4.4 Through the preparation of the Neighbourhood Plan AECOM undertook a housing needs assessment in 2022 to inform the Neighbourhood Plan, the housing needs assessment identifies a need of 154 dwellings and a residual requirement of 77 dwellings.
- 4.4.5 The NPPF states at paragraph 69 the strategic policy maker should set the housing requirements for the whole area. This housing requirement should use the standard method figure, however the housing requirement is able to be above the standard method if there is a reason to do so for example economic aspirations of a neighbourhood.
- 4.4.6 Paragraph 70 states that where it isn't possible for a Local Authority to provide a housing requirement for a neighbourhood plan an indicative requirement should be provided. This has not been the case within the draft Market Bosworth Neighbourhood Plan, a figure derived from the AECOM housing needs assessment has been used.
- 4.4.7 The AECOM housing needs assessment purely looks at housing needs within the area and does not set a housing requirement. The Local Authority through preparing the emerging Local Plan have looked at a number of factors when proposing a housing requirement, this includes factors such as the un-met need from Leicester City Council. The housing needs assessment does not take this into account.

- 4.4.8 The Emerging Local Plan (albeit now stalled and reviewing the housing numbers based on the new standard method), was proposing a housing requirement of 660 homes per annum which is significantly higher than the 472 dwellings identified within the AECOM report.
- 4.4.9 The Emerging Local Plan looked to allocate 180 dwellings on an additional site beyond the allocations of the adopted Local Plan. The emerging MBNPR only proposes to re-allocate the site at Station Road which was allocated within the SADMP and the adopted Market Bosworth Neighbourhood Plan. The allocation is made for at least 77 dwellings and does not seek to meet the needs of the future. For the purpose of paragraph 70 of the Framework, the Neighbourhood Plan does not seek to meet a housing requirement set for Market Bosworth based upon the most recent strategy and does not make an allocation.
- 4.4.10 Given this, if the Emerging MBNPR is made prior to the hearing it should be considered that the presumption in favour of sustainable development within paragraph 11d should be applied given that in paragraph 14 it is clear that the presumption is only disapplied when both the plan has been adopted 5 years or less and that the neighbourhood plan sets policies and allocations that meet the housing requirements. The emerging local plan does not make allocations to meet the needs of Market Bosworth.
- 4.4.11 Within the Neighbourhood Plan Examiner's report it is acknowledged that the Housing Needs Assessment undertaken by AECOM has been completed due to the lack of evidence from the Local Authority, however the Examiner is very clear that the Neighbourhood Plan would require a review once the housing needs are known, and further allocations would be required. At paragraph 5.2.60 the examiner has suggested a modification to section 6.14 of the Neighbourhood Plan, which states that:

Further to the progression of both the Leicester City Plan and the Hinckley and Bosworth Local Plan, and further to relevant revised national policy, it is accepted that housing needs for the NP area are likely to change. Reflecting Market Bosworth's status as a Key Rural Centre, there will be a need to review the housing allocations for the NP area, in the near future.

Until such a review of the NP takes place, and the housing need for the area has progressed sufficiently through the Local Plan process to a point where it carries weight, windfall development proposals will not be resisted. Such windfall proposals need to be supported by a clear and up-to-date housing needs assessment, and accord with all other policies within this NP.

- 4.4.12 Furthermore, the Examiner has suggested that flexibility must be included within the policies to allow for housing developments to come forward in the absence of an up to date Local Plan, and the Neighbourhood Plan not currently meeting the full housing needs of the Town. Policy CE5 is to be updated too:

Outside the development boundary, new development proposals that accord with national policy and the development plan for the area, and other policies within the Market Bosworth Revised NP, will not be resisted providing they:

- contribute to the local economy***
- re-use or extend an existing building***
- relate to sport or recreation land uses***
- reflect para 84 of NPPF 2023 if concerning a single dwelling house,***

Any housing proposal adjacent to the existing settlement boundary will be considered positively providing it is accompanied by an up-to-date housing needs assessment and providing any adverse impacts do not outweigh the benefits of the development.

- 4.4.13 This policy gives the exception for housing sites to come forward outside of the settlement boundary due to the unknown housing needs within the Borough and within Market Bosworth. Given this, housing development should be looked upon favourably. It is noted that an up to date housing needs assessment should be submitted with housing proposals, however it is evident at the current time there is an overriding need for housing within the Borough, given the Council cannot demonstrate a five year housing land supply, and the new standard method is higher than that which the AECOM report identifies as the starting point for need within Market Bosworth.
- 4.4.14 The neighbourhood plan has been submitted for examination and the examiner report has been published and recommended the plan for referendum subject to modification, the Market Bosworth Neighbourhood Plan should be given significant weight in consideration of this appeal.
- 4.4.15 In a circumstance where the emerging Neighbourhood Plan is 'Made' prior to the appeal being heard the Neighbourhood Plan should be given full weight. However, even if the Neighbourhood Plan is Made it should be considered that the tilted balance of paragraph 11 is still engaged, given that the plan does not make an allocation to meet the area's housing needs.

4.5 Housing Land Supply and Delivery

4.5.1 Paragraph 78 of the NPPF states that:

‘Local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years’ worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old’

4.5.2 HBBC cannot currently claim a five year supply of housing, and they have agreed in a recent appeal² that the housing land supply is as low as 3.55 years.

4.5.3 The Council accepts that they cannot demonstrate a five year housing land supply, and in turn the lack of a five year housing land supply engages the tilted balances as set out in paragraph 11(d) of the framework.

4.5.4 In light of a lack of a housing land supply significant weight should be given to the delivery of housing.

4.6 Hallam Land Judgment

4.6.1 Davis, Lindblom and Hickinbottom LJ in *Hallam Land vs SSCLG*³ made clear that the extent of a five year housing land supply shortfall is a material consideration in determining the weight to be afforded to the benefits of providing new housing on a particular proposal:

‘The policies in paragraphs 14 and 49 [as were] of the NPPF do not specify the weight to be given to the benefit, in a particular proposal, of reducing or overcoming a shortfall against the requirement for a five-year supply of housing land. This is a matter for the decision-maker’s planning judgment, and the court will not interfere with that planning judgment except on public law grounds. But the weight to be given to the benefits of new housing development in an area where a shortfall in housing land supply has arisen is likely to depend on factors such as the broad magnitude of the shortfall, how long it is likely to persist, what the local planning authority is doing to reduce it, and how much of it the development will meet’. [para. 51]

² APP/K2420/W/24/3348387 Land east of The Common, Barwell, 13th March 2025

³ [2018] EWCA Civ 1808

4.6.2 As such, while in the Appellant's view the tilted balance applies in any event in this case, the weight to be afforded to the benefit of market and affordable housing, and the corresponding weight to harm resulting from conflict with policies which restrict the supply of new housing, will depend on the extent of the shortfall, how long it is likely to persist, the actions the LPA is taking to reduce it, and how much of it the development will meet.

4.6.3 In this case, and in light of HBBC not being able to demonstrate as housing land supply, of which is as low as 3.5 years. The weight given to the delivery of market housing should be significant and the weight given to affordable housing is very significant.

4.7 Affordability

4.7.1 The affordability of housing in Hinckley and Bosworth is an issue.

4.7.2 A useful marker of affordability is the ratio of average house prices to average earnings in a particular area. A ratio of around 3.5 is considered to be the marker of an affordable housing market i.e. the ability to purchase is based on a mortgage 3.5 times' gross income.

4.7.3 In HBBC⁴ in 2024 the median affordability ratio was 7.5, meaning that the median house price is 7.5 times the median salary in the Borough. At the start of the HBCS plan period in 2006, the median affordability ratio was 5.92, demonstrating that average house prices have continued to increase at a faster rate than average wages over the course of the plan period; in short, houses are becoming more and more unaffordable within HBBC.

4.7.4 One reason house prices have been driven upwards is due to a lack of supply. There is a need to address this issue by offering a wider range of house types which are more affordable, thus encouraging young start-up families to the area. If the cost of housing remains high, younger families are unable to enter the housing market, or a higher percentage of their income is spent on mortgage or rental payments and household bills leaving little disposable income to spend locally.

4.7.5 The appeal proposals will provide the opportunity for a range of family houses that reflects market demand and will also deliver a range of affordable housing for which there is a clear need in the Borough. The provision of 40% affordable housing should therefore be afforded very significant weight.

⁴ Office for National Statistics, March 2024. House price (existing dwellings) to workplace-based earnings ratio (lower quartile and median), 1997 to 2023, Table 5c & Table 6c.
<https://www.ons.gov.uk/peoplepopulationandcommunity/housing/datasets/housepriceexistingdwellingstoreidencebasedearningsratio>

4.8 Affordable Housing

- 4.8.1 Separate from, but linked to, the issue of the general affordability of housing in Hinckley and Bosworth is the need for affordable housing in the area. Affordable housing allows those with the least means in society to access the housing market.
- 4.8.2 The delivery of affordable housing has not been meeting the need within the Borough. Since the start of the HBCS plan period (2006) until September 2023, 1,799 affordable homes have been built⁵, this is significantly short of the affordable needs of the district. The Leicester and Leicestershire Housing and Economic Needs Assessment (HENA) (2022), identifies an annual affordable housing need in HBBC of 498 dwellings per annum, this need within the report is split down to show that there is a need of 321 dwellings for social and affordable rent and 177 dwellings for affordable home ownership.
- 4.8.3 The table below shows the affordable housing completions between 2020/21 and 2022/23. This shows the delivery of affordable homes falls far short of the affordable housing needs of the Borough.

Year	Affordable Housing Completions (Residential land availability monitoring statement 2023)	Affordable Housing Need (2022 HENA)	Shortfall / Surplus
2020/21	102	498	-396
2021/22	73	498	-425
2022/23	350	498	-148
Totals	525	1,494	-969

Table 2: affordable housing completions vs affordable housing need

- 4.8.4 Another indicator of the affordable housing need within the Borough can be seen from those families and individuals on the Council's housing register. In 2024 there were 1,270 households on the housing register in Hinckley and Bosworth⁶. This number has increased from 946 in

⁵ Hinckley and Bosworth Borough Council. Residential Land availability monitoring statement, 1st April 2022- 30th September 2023

⁶ Live table 600: Number of households on Local Authority housing registers (waiting Lists) – December 2024 update

2023. This number directly relates to the number of families and individuals in need of suitable housing.

4.8.5 Delivery of affordable housing is clearly a key priority both for Central Government and for local planning authorities. With 47% of affordable homes in 2020/21 funded through S106 agreements⁷ (i.e. entirely funded by developers with nil grant from the public sector), political promises rely quite significantly on delivery by the planning system.

4.8.6 It is of course easy to lose the real meaning of this issue amongst the stark data on affordable housing need and delivery. This represents a situation where individuals and families are unable to access that most basic human need for a home to call their own. They are real people, in real need, right now. This is why it is important that no less than very significant weight should be afforded to the delivery of up to 40 new affordable homes on the appeal site, provision which would help to meet affordable housing needs, at nil cost to the taxpayer.

4.8.7 Finally, it is important to note that in general, Section 106 obligations are provided primarily to mitigate the impact of a development; that is, they are provided to meet the needs arising from that development. However, of course, in respect of affordable housing, the need is pre-existing and is not generated by the proposed development. That is the reason why the delivery of affordable housing, subsidised by the delivery of market housing, is such an important benefit on proposals such as the appeal scheme.

4.9 Delivery of Housing within Five Years

4.9.1 The proposed development would make a significant contribution to the delivery of housing. The proposals would create up to an additional 100 dwellings, including up to 40 affordable dwellings. Should planning permission be granted, from the Appellant's experience all of the housing could be delivered within the five-year period. This is an important factor given the national housing crisis currently being experienced and the general imperative to 'boost significantly' the supply of housing, as set out in the Framework; the urgent need to address a shortfall in HBBC's housing land supply; and the need to address affordability issues.

4.10 Previous Appeal Decision

4.10.1 Within Section 2 of this hearing document it is identified that the site was subject to a previous appeal decision. The scheme was dismissed on 17th August 2023.

⁷ DLUHC November 2021, Affordable Housing Supply April 2020 to March 2021, England.

4.10.2 The reasons for dismissal all came from the impacts of developing the parcel of land along Shenton Lane, and access onto Shenton Lane. The key reasons for the dismissed appeal were:

- Urbanising effect on Shenton Lane,
- Change of character to Warwick Lane through footpath improvements,
- Harm to the Market Bosworth Conservation Area through the proposed highways improvements on Shenton Lane, and Warwick Lane,
- Conflict with policy DM4, CE3 and CE5, due to the location of development along Shenton Lane.

4.10.3 Through the current appeal proposal, the concerns raised by the previous appeal Inspector have been addressed. The Case Officer also agreed that the concerns raised by the Inspector have been address through the appeal proposals within the committee report⁸. The Inspector's reasons have been addressed through the removal of access from Shenton Lane, and development within the smaller parcel of the appeal site adjacent to Shenton Lane. The reasons have been addressed below:

- i. The urbanising effect on Shenton Lane, through dwellings facing onto the lane has been removed. Development has been pulled back from the parcel along Shenton Lane and remains only on the larger parcel. The Inspector was clear within his decision that development on the larger parcel would be well contained and have a negligible effect on the character and appearance of Market Bosworth. The Inspector states the following at paragraph 18 of the decision:

"Overall, for the reasons set out above, the development of the larger field would result in development that is well contained and would not intrude significantly into the countryside surrounding the town. Moreover, the development of the larger field would have a negligible effect on the character and appearance of Market Bosworth."

⁸ CD 5.01 paragraph 5.2

Therefore, the revised proposals are well contained within the larger field and have a negligible effect on the character and appearance of Market Bosworth. The Urbanising effect on Shenton Lane has been removed.

- ii. Change of character of Warwick Lane. The previous proposals proposed footpath widening along Warwick Lane to ensure safe access to the services including the Primary School. Warwick Lane lies within the Conservation Area.

The need to widen the footpath on Warwick Lane has been removed through the introduction of the access on York Close. The walking routes through York Close to the Primary School do not require any upgrades to ensure a safe route. This harm has been removed.

- iii. The previous Inspector considered that the public benefits did not outweigh the harm to the significance of the Conservation Area. The harm identified within the previous appeal came from the highways improvements along Warwick Lane and Shenton Lane. The need for these improvements has been removed due to the removal of the access onto Shenton Lane, and the proposed new access onto York Close. The public benefits would now outweigh the harm to the Conservation Area.

- iv. The Inspector raises conflict with DM4 on the basis of the impact on the character of Shenton Lane, and how the development protects the instinct character and beauty of the countryside.

It should be noted that the proposal still lies within the Countryside as defined by this policy however, the scheme does not have the adverse impacts as stated by the previous Inspector.

Policy CE3 of the adopted Neighbourhood Plan identifies key views, of which important view 9 is located along Shenton Lane in the vicinity of the appeal site. The current appeal proposals remove the previously proposed urbanising effects and would not impact this viewpoint.

Policy CE5 of the Neighbourhood Plan seeks to protect the wider landscape of the Parish in a similar way to DM4. As previously discussed the urbanising effects on Shenton Lane have now been removed. It is also important to note the proposed amendments to this policy through the emerging

Neighbourhood Plan. The proposed wording is to ensure that housing proposals located outside the settlement boundaries are looked on favourably.

- 4.10.4 As identified above the revised proposals address the reasons identified within the previous appeal decision.

4.11 Technical Matters

- 4.11.1 As set out above in Table 1, all the consultee comments have been addressed and there are no outstanding technical objections. However, this section addresses some technical matters that have been raised within the committee report and by Members at the Planning Committee.

Highways

- 4.11.2 The proposal seeks to gain access through number 35 York Close, with the access road being 5.5m wide and 2m footway on either side of the access road.
- 4.11.3 LCC provided comments on the proposal, the initial response was provided on 14th November 2024 in which Ashley Helme on behalf of Gladman provided additional comments to address the questions raised. LCC responded on 27th February 2025 identifying that there was no objection subject to conditions.
- 4.11.4 Appendix 2 responds to the comments raised by Members at Planning Committee. During the committee Members did ask Officers to raise their concerns with LCC regarding highways safety. LCC did not add any further comments, or reasons for refusal.
- 4.11.5 The proposal is acceptable in highways terms and would not create a severe impact on the highways network.

Heritage

- 4.11.6 The proposal would result in less than substantial harm to the Market Bosworth Conservation Area, this harm would be at the lowermost end of the spectrum. The less than substantial harm must be weighed against the public benefits as per paragraph 215 of the Framework.
- 4.11.7 Furthermore, the loss of the extent of ridge and furrow within the site would represent a small part of the overall non-designated heritage asset of lower significance. The loss of the ridge and furrow should be weighed in the planning balance.

4.11.8 At appendix 3, Pegasus have provided a note in response to the committee report, which outlines that there are no matters of disagreement between the appellant and the LPA on heritage matters.

4.11.9 The LPA has applied limited to moderate weight within the planning balance to the heritage harm. Given the level of harm at the lowermost end of the spectrum that could potentially be caused by the appeal proposal limited weight should be given to the heritage harm.

4.12 Third Party Representations

4.12.1 In addition to matters raised by the Council and consultees, several representations were received from third parties to the planning application. The Appellant does not consider that they raise any substantive issues that have not been addressed within this SoC and the supporting Core Documents [CD1 and CD2]. However, the Appellant reserves the right to respond to any further issues raised by third parties at the hearing.

5 ADDRESSING REASONS FOR REFUSAL

5.1 Reasons for refusal

- 5.1.1 The application was refused by committee with two reasons for refusal. These reasons are set out in section 1 of this statement. The Reasons for Refusal are dealt with below:

Residential Amenity

- 5.1.2 The first reason for refusal suggests that there would be significant harm to the residential amenity of residents on York Close. Suggesting that the change in character, noise and general disturbance should be given very significant weight in the planning balance.
- 5.1.3 The proposal would not cause significant harm to residential amenity for the following reasons.
- 5.1.4 The access road will be created through the demolition of 35 York Close, the design of this access road has been carefully considered to ensure a safe access but also to limit the disturbance of the neighbouring properties.
- 5.1.5 The reason for refusal suggests that there would be harm due to the change in character of York Close. York Close is a residential street, which is part of a wider residential estate. There are currently vehicular, pedestrian and cycle movements along York Close associated with residential properties. The appeal proposals would not introduce any different types of movement, they would all be akin to residential properties within a housing estate, of which York Close already is a part. It is noted that the number of movements would increase, the proposed development would result in approximately an additional 55 to 65 vehicle movements in the peak hours and an additional 45 pedestrian trips from the appeal site. However, given the nature of the road the change to the character would be negligible.
- 5.1.6 The reason for refusal identifies that noise would contribute to the harm to amenity. A Noise Impact Assessment [CD 1.17] was submitted as part of the application, this concluded that noise from additional vehicles would not result in a significant adverse effect, there would be a small change in the daytime and a negligible effect at night. The Environmental Health Officer (EHO) had provided a response to the application, in which an additional fence along the proposed access was recommended. Gladman agreed that this could be achieved, and therefore the EHO did not have any objection to the appeal proposals.

- 5.1.7 The third matter identified within the reason for refusal for the harm to residential amenity was general disturbance. This matter is hard to quantify, however based upon the potential noise, traffic, and same use as the existing housing estate being proposed this would not lead to a significant impact.
- 5.1.8 In addition to the matters set out within the reason for refusal, it is important to note that the proposal has no object on highways grounds. A stage 1 Road Safety Audit has been completed, and there is not a concern regarding highways safety.
- 5.1.9 When considering construction traffic, and its potential impacts this would be dealt with by a construction management plan, which should be conditioned. A construction management plan would be able to manage construction traffic movements, as well as any potential dust pollution which may be seen as a nuisance.
- 5.1.10 An appeal decision at Old Park Farm, Farnham⁹ [CD 6.02] dealt with a similar matter, in which an access point was being taken through an existing estate. The Inspector in that case concluded that there would not be harmful effects on residential amenity.
- 5.1.11 Overall, there would not be a very significant impact on residential amenity. There would be small change in noise during the daytime, however this would not cause a significant adverse impact. The overall impact on residential amenity is deemed to be limited.

S106

- 5.1.12 The second reason for refusal related to a S106 not being entered into at the time of the decision. A S106 will be entered into ahead of the appeal event and therefore this reason for refusal will fall away.

⁹ APP/R3650/W/24/3353124 Land at Old Park Lane, Farnham

6 BENEFITS AND HARMS

6.1 Benefits

6.1.1 The Appellant submits that the development of the appeal scheme would result in a considerable number of benefits, including:

Economic

- The build cost of the development is anticipated to be around £15.4million. Calculations suggest that this construction expenditure would support around 87 Full Time Equivalent (FTE) construction jobs over the period of the build.
- The development of new homes in the proposed development could help to address local unemployment in the industry and provide apprenticeship and training opportunities for young unemployed people.
- Household expenditure from 100 new homes would be circa £2.7m per year. This will benefit the local area.
- Over the four years following the completion of the development, the Council will benefit from circa £842,000 via the New Homes Bonus.
- The new residents will increase demand for, and use of, local services and businesses and increased spending will help to protect, maintain and enhance the services available and accessible within the town and surrounding area.

Social

- Provision of up to 60 market homes in a location where there is currently an evidenced shortfall and need for new housing.
- The provision of affordable housing (40% or up to 40 units) in an authority where there is an existing unmet need unlikely to be delivered through alternative means.
- New footpaths to be incorporated into the areas of public open space.
- The provision of 2.7ha of public open space, including an equipped play area.

Environmental

- Biodiversity protection, diversification and enhancement on the site, through new hedgerow, tree and wildflower planting and the delivery of new garden spaces and formal and informal green spaces;

- An on-site sustainable urban drainage system that will provide a betterment in surface water runoff from the site and increase habitat features enhancing biodiversity; and
- The provision of an electric vehicle charging point for each property.

6.1.2 Whilst some of these arise as a consequence of mitigating the impacts of the appeal proposals, they will result in improvements which would not otherwise occur and which will be of benefit to existing and future residents of the local area.

6.1.3 The weight that the appellant considers should be afforded to each benefit is considered in Chapter 7.

6.2 Harms

6.2.1 The extensive and detailed supporting material, assessments and reports submitted with the application demonstrate that there are no unacceptable adverse technical impacts associated with the scheme.

6.2.2 The location of the site on the edge of Market Bosworth has meant that there is less than substantial impact on the Market Bosworth Conservation area at the lowest most end of the spectrum. In accordance with paragraph 215 of the framework the public benefits must be weighted in the balance against the harm to the conservation area.

6.2.3 In addition, harm has been identified in association with the loss of the non-designated heritage asset ridge and furrow within the site. This loss would be the removal of a small part of the overall non-designated heritage asset of the lowest significance, and as a result there will be a minor level of harm to the significance.

6.2.4 As with any greenfield site, the development will introduce changes to the area and some urbanising effects, and it will involve the loss of some greenfield land. However, this is to be expected and the LVIA demonstrates that the scheme can be delivered without unacceptable wider landscape and visual impacts, and the loss of greenfield land will be negligible.

6.2.5 In addition, the Appellant acknowledges that during the construction of the development there may be some effects that are short-term, temporary and local to the site and immediate area. In any event, best practice measures will be put in place to mitigate any adverse, temporary impacts in terms of noise, the operation of construction traffic, plant and machinery or the management of any other related disturbances or nuisance. This is likely to include controls on working hours and dust-suppression measures.

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- 6.2.6 Furthermore, it is noted that there would be a small change in noise levels due to car movements along York Close. This would have a limited impact on the residential amenity of residents of York Close.

7 PLANNING BALANCE

7.1 Introduction

- 7.1.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that determination must be made in accordance with the Development Plan unless material considerations indicate otherwise.
- 7.1.2 The Appellant considers that the appeal proposals are in accordance with the majority of the Development Plan policies, and that the spatial policies which the proposals are in conflict with are out of date and should be afforded limited weight, by virtue of the policies failing to plan for the up-to-date housing needs of the area, the need to apply the policies flexibly, and the absence of a five year housing land supply. As such while the proposals conflict with the Development Plan as a whole, it is deemed that material considerations in this case indicate the appeal should be allowed.
- 7.1.3 No significant harm arises from this the proposed development, other than the limited harm caused due to conflict with out-of-date policies of the Development Plan, very minor less than substantial harm the Market Bosworth Conservation Area, minor level of harm to the non-designated heritage asset and the inevitable landscape impact of developing an undeveloped site for housing; significant benefits would be delivered as part of the scheme. It is the Appellant's case that the benefits of the proposal outweigh the limited harms stemming solely from conflict with out-of-date policies within the Development Plan, even on a flat balance.

7.2 Benefits and Harms

- 7.2.1 The Appellant considers that the material considerations, as outlined in Chapter 4 of this Statement and the benefits set out in Chapter 6 indicate planning permission should be granted in this case. Table 3 sets out the weight the Appellant considers should be afforded to each of the identified benefits and harms associated with the proposed development.

Table 3: Weight to be afforded to benefits and harms

Benefits	Weight	Harms	Weight
Market housing Provision of up to 60 market dwellings, all of which are capable of being delivered within the next five years.	Significant	Character and appearance The impact of the development on the character and appearance of the area.	Limited
Affordable housing Provision of up to 40 affordable homes, which will assist in addressing the considerable need in the Borough.	Very significant	Construction phase Short-term adverse impact, albeit this can be mitigated somewhat through planning conditions.	Very limited
Economic benefits Including construction spend, job creation and household spending at a time where economic growth is greatly needed.	Significant	Heritage harm Harm to the setting of Market Bosworth Conservation Area, and the loss of a small part of the non- designated ridge and furrow	Limited (Very minor, less than substantial)
Public open space and recreation including the provision of allotments The provision of formal and informal public open space and green infrastructure and its long-term management for use by the new and existing community.	Moderate	Residential amenity A small change to daytime noise levels and character to York Close	Limited
Biodiversity The biodiversity of the site will be protected, diversified and enhanced through new hedgerow, tree and wildflower planting and delivery of new garden spaces and formal and informal green spaces.	Moderate	Planning policy conflict Conflict with policy DM4, and CE5	Limited weight
S106 contributions Financial contributions towards community infrastructure, to the extent that they will provide a benefit for existing members of the community and new residents.	Limited		

7.3 Heritage Balance

- 7.3.1 Footnote 7 to paragraph 11 of the Framework identifies a closed list of potential restrictive policies that may in a particular case cause a strong reason for the presumption to be

disapplied, it is however not a blanket restriction, and any harm is to be considered as part of the planning balance.

- 7.3.2 Within footnote 7 there is specific reference to “designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 75)”. Further paragraph 215 of the Framework states:

“Where a development proposal will 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 including, where appropriate, securing its optimum viable use.”

- 7.3.3 As such, a simple, ‘flat’ planning balance of the public benefits of the proposal against the harm to heritage assets must be carried out. It is clear that the very minor, less than substantial harm to the Market Bosworth Conservation Area would be outweighed by the public benefits. As such, Framework paragraph 215 does not provide a clear reason for refusing this application. The LPA agree with this at paragraph 8.85 of the Officer’s Committee Report [CD 5.01].

7.4 Tilted Balance

- 7.4.1 In the light of the conclusion above, it is clear that there are no policies in the Framework which indicate that development should be restricted and therefore the tilted balance at paragraph 11(d)(ii) remains ‘in play’.
- 7.4.2 The application of the tilted balance means that it is for the Inspector to weigh into the balance the conflict with the policies of the Development Plan together with all other material considerations. This will determine whether the benefits attributed by the Government to increasing supply of housing outweigh the limited conflicts with the Development Plan.
- 7.4.3 The assessment in Table 4 clearly demonstrates that the identified harms do not come close to significantly and demonstrably outweighing the benefits of the proposal, which will deliver up to 100 much-needed market and affordable homes on a suitable site in a sustainable location.
- 7.4.4 In accordance with paragraph 11 of the Framework, the development proposal clearly constitutes ‘sustainable development’. The balance clearly tips in favour of granting planning permission. Subsequently the appeal should be allowed without delay.

7.5 Flat Balance

- 7.5.1 Notwithstanding that fact that it is Gladman's case that the tilted balance should be engaged, even on a flat balance it is considered that the benefits outweigh the harms of the development and the appeal should be allowed.

APPENDIX 1:

Appendix 1- National Planning Policy Framework

- 7.5.2 The latest version of the National Planning Policy Framework (The Framework) was published on the 13th December 2024 and, from the date of publication, its policies are a material consideration to be taken into account when dealing with applications¹⁰.
- 7.5.3 The Framework sets out the Government's planning policies for England and how these are expected to be applied; it also sets out the requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so.
- 7.5.4 Planning law requires that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. This is confirmed by paragraphs 2, 12 and 48 of the Framework, which continue to place importance on the planned approach and outline that where a planning application conflicts with the up-to-date requirements of the Development Plan (including any neighbourhood plans that form part of the Development Plan) permission should not usually be granted, unless material considerations indicate the plan should not be followed. The Framework is, however, a material consideration in decision taking from the date of its publication¹¹.
- 7.5.5 The Government has made clear its expectation, through the Framework, that the planning system will positively embrace well-conceived development to deliver the economic growth necessary and the housing needed to create inclusive and mixed communities so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development.
- 7.5.6 Framework paragraph 34 describes how policies in Local Plans should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Paragraph 49 also confirms that emerging development plans may also be afforded weight in the decision-making process according to their stage of preparation and the extent of unresolved objections to them.

¹⁰ Paragraph 231

¹¹ Paragraph 231

- 7.5.7 As stated at paragraph 11(d)(ii), indicates that the decision should be to grant planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Paragraph 11(d)(i) asserts that the presumption can be disengaged where policies in the Framework provide a clear reason for refusing development.

Achieving sustainable development

- 7.5.8 Paragraph 7 of the Framework summarises the objective of sustainable development as meeting the needs of the present without compromising the ability of future generations to meet their own needs. Paragraph 7 also makes reference to the UK's commitment to meeting the 17 'Global Goals for Sustainable Development' which address social progress, economic wellbeing and environmental protection.
- 7.5.9 Paragraph 8 notes that to achieve sustainable development, there are three overarching objectives that need to be pursued in mutually supportive ways: social, economic and environmental. Under the 2021 Framework greater reference is made to 'beautiful and safe' places as a social objective.
- 7.5.10 The appeal proposals will deliver homes that are required now to meet both market and affordable housing need at this sustainable location and allow for a choice of modes of transport to be used to access local facilities and services. Furthermore, the appellant has demonstrated how the appeal site and Market Bosworth would represent a suitable and sustainable location for the level of development proposed.
- 7.5.11 Paragraph 14 set out how the presumption in favour of sustainable development applies when considering Neighbourhood Plan. As the Market Bosworth Neighbourhood Plan was made in September 2015 and last 'modified' in March 2021, paragraph 14 criteria a) would not apply.
- 7.5.12 Furthermore, in the consideration if the emerging neighbourhood plan was adopted, and in that case criteria a) would apply, criteria b) would not apply given that the plan does not meet the Local Housing Needs for the Town. The examiner's report confirms that a review of the neighbourhood plan would be required when the Local Authority confirm the housing needs.

Delivering a sufficient supply of homes

- 7.5.13 Paragraphs 61-84 of the Framework set out how the Government's objective of "significantly boosting" the supply of homes is to be achieved. The appeal proposals will assist the Council
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by helping to boost the supply of both market and affordable housing in an area where there is a pressing shortage for further market and affordable homes.

7.5.14 Paragraphs 63 of the Framework state that local authorities should seek to deliver a wide choice of quality homes and widen opportunities for home ownership, planning for a mix of housing based on current and future demographic trends. The proposal would be capable of providing for a range of market and affordable homes of various sizes and tenures meeting the expectations of the Framework.

7.5.15 Paragraph 62 of the Framework states that strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. In addition to local housing needs, the needs of neighbouring areas should be considered and taken into account when establishing the need of housing to be planned for. Leicester City Council's unmet need needs to be taken into consideration when Hinckley and Bosworth are establishing a housing requirement for their emerging Local Plan.

7.5.16 The definition of local housing need is set out at Annex 2 of the Framework, as follows:

"The number of homes identified as being needed through the application of the standard method set out in national planning guidance."

7.5.17 It is important to note that through the publication of the NPPF 2024, there is now a mandatory Local Housing Need figure, which is calculated by the standard method. This figure is significantly higher than that identified by the AECOM housing needs assessment identified through the Neighbourhood Plan.

7.5.18 Paragraph 64 of the Framework states that planning policies should also specify the type of affordable housing required and expect it to be met on site. In this instance, an appropriate tenure mix will be secured via the accompanying legal agreement, and the appellant anticipates that the appropriate affordable housing requirement will be met in full on site. The proposal will provide for a range of market and affordable homes of various sizes and tenures. These new dwellings will also help to free up existing dwellings that are under-occupied, enabling more efficient use of existing housing stock to be made.

7.5.19 Paragraph 78 of the NPPF notes that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide a **minimum** of five years' worth of housing against their housing requirement (my emphasis) or against their local housing need where the strategic policies are more than five years old. The supply of specific deliverable sites should in addition include a buffer (moved forward from later in the plan

period) of either 5%, or 20%. A 20% buffer should be applied where there has been significant under delivery of housing over the previous three years, to improve the prospect of achieving the planned supply.

- 7.5.20 In this case, HBBC accepts that it is currently unable to demonstrate a five-year housing land supply. The consequence of that inability to demonstrate a HLS is that the tilted balance must be applied: see footnote 8 of the NPPF, and §008 of the PPG on "Housing supply and delivery":

"What happens if an authority cannot demonstrate a 5 year housing land supply?

'In decision-taking, if an authority cannot demonstrate a 5 year housing land supply, including any appropriate buffer, the presumption in favour of sustainable development will apply, as set out in paragraph 11d of the National Planning Policy Framework.'

Building a strong, competitive economy

- 7.5.21 Paragraph 85 of the Framework maintains that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
- 7.5.22 The economic benefits associated with the appeal proposals are set out at Section 6 of my evidence and in more detail within the Socio-economic Benefits Statement (CD1.06) submitted with the planning application. In my opinion, these are real benefits that are derived from the scheme and should be given significant weight in the planning balance.
- 7.5.23 It is the Appellant's opinion, these are real benefits that are derived from the scheme and should be given significant weight in the planning balance. As contextual support for this I would refer to the appeal decision by Inspector Wildsmith, who, when undertaking the planning balance for an allowed appeal in Great Missenden¹² (Chiltern District Council), found the following in relation to the economic benefits of the proposal:

"...there would be benefits to the local economy as a result of direct and indirect jobs generated during the construction period, and as a result of increased population, which could increase demand for and use of local services and

¹² Great Missenden (ref: 3202026 paragraphs 120 – 121)

businesses in the High Street and the wider District, once the housing is occupied. This would help to maintain and enhance these services and businesses, thereby increasing their viability.

I acknowledge that these benefits would not be unique to this development but would flow from any new housing development of this size within the District. However, this does not detract from the fact that the appeal proposal would give rise to these real benefits to which I attach significant weight..."

Promoting healthy and safe communities

- 7.5.24 Paragraph 96 of the Framework promotes the aim of achieving healthy, inclusive and safe places by promoting social interaction, creation of places which are safe and accessible and also supporting healthy lifestyles through the provision of green infrastructure places. The accompanying Development Framework Plan (CD2.01) demonstrates how the provision of open space, landscaping, and informal open space and potential footpath linkages could be integrated into a detailed design for the site at reserved matters stage.
- 7.5.25 The Development Framework Plan also shows how a total of 2.7ha of new green infrastructure and formal and informal open space could be provided as part of the appeal proposals. This includes accessible open space, a children's play area and recreational routes. The green infrastructure framework will also allow for appropriate landscape and ecological mitigation measures to be secured and applied.
- 7.5.26 These components of the scheme will enable the new resident community, together with the existing, to use these networks in order to take exercise and thus the proposed scheme will actively promote general well-being for the new and existing resident community.

Promoting sustainable transport

- 7.5.27 Paragraphs 109-118 of the Framework set out how transport factors should be taken into account when considering development. In accordance with paragraph 118 of the Framework, the application was supported by a detailed Transport Assessment (CD2.04) and Travel Plan (CD1.19). The submitted documents demonstrate that the development proposals are acceptable in highways and transportation terms, in accordance with paragraph 116 of the Framework.
- 7.5.28 Paragraph 116 of the NPPF states:

"In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code⁴⁸; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree through a vision-led approach."

7.5.29 Paragraph 116 of the NPPF states:

"Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios"

7.5.30 Leicestershire County Council have confirmed that the application is acceptable in highways terms subject to conditions.

Making effective use of land

7.5.31 Paragraph 124 of the Framework states that:

"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions....."

7.5.32 The appeal proposals provide a suitable location for housing development and would be an effective use of the land. The proposals also accord with paragraph 124 as they would offer opportunities to achieve net environmental gains by both enabling new habitat creation and improving public access to open space, not previously available. As set out in the Design and Access Statement (CD1.07), the overall average net density for the residential development will respect the character and form of the surrounding area.

Achieving Well Designed Places

- 7.5.33 The Framework states that good design is a "*key aspect of sustainable development*"; the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve. Paragraph 134 focuses on the need to produce design codes at an area-wide, neighbourhood or site-specific scale. Paragraph 136 states that planning decisions should ensure that new streets are tree-lined, for amenity and climate change resilience reasons.
- 7.5.34 The scheme is in outline, with all matters reserved except for details of the main site access. The Design and Access Statement (DAS) (CD1.07) and Development Framework Plan (CD2.01) demonstrate how the site will deliver a high quality sustainable residential development. The proposals have evolved through an iterative process that was informed by environmental and technical work and an understanding of the development's relationship with Market Bosworth and the surrounding context.

Meeting the challenge of climate change, flooding and coastal change

- 7.5.35 This section of the Framework states that the planning system should support the transition to a low carbon future in a changing climate, helping to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience (particularly in respect of flood risk) and support renewable and low carbon energy.
- 7.5.36 Paragraphs 162 to 169 set out the Government's approach to tackling climate change through the planning system. It is stated that new development should avoid vulnerability from impacts arising from climate change, ensuring adaptation measures are brought forward such as encouraging green infrastructure, and helping to reduce emissions through the location, orientation and design of development.
- 7.5.37 The above matters have been taken into account in designing the proposal, which includes 2.7ha of green infrastructure provision. Matters such as design and massing will be required to conform to the Framework and any local policies in place at the reserved matters stage. Development will also be required to meet the requirements of the Building Regulations in place at the time in respect of energy generation.
- 7.5.38 Paragraph 170 of the NPPF states that development should be directed away from areas at highest risk of flooding. In this respect, a Flood Risk Assessment (FRA) (CD2.03) was submitted with the appellant's planning application and considers the existing flood risk of the site and includes an assessment of the surface water drainage requirements of the site. The FRA is
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clear that the appeal proposals would be at minimal risk from flooding, would not increase flood risk elsewhere and are compliant with the requirements of the Framework. The appeal proposals will also allow for the control of surface water run-off from the appeal site.

- 7.5.39 Hinckley and Bosworth Borough Council's Drainage Advisor stated that the drainage strategy put forward for the appeal site would be acceptable subject to conditions, when commenting on the appellant's planning application (CD3.06).

Conserving and Enhancing the Natural Environment

Biodiversity

- 7.5.40 Paragraph 187(d) of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 7.5.41 The Ecological Appraisals (CD2.02) submitted in support of the appeal proposals confirm that no significant adverse effects would be expected as a result of the proposed development, subject to the delivery of proposed landscaping and ecological enhancement measures.

Landscape/ Agricultural Land

- 7.5.42 Paragraph 187 of the Framework states that the planning system should contribute to and enhance the natural and local environment by inter alia protecting and enhancing valued landscapes (in a manner commensurate with their statutory status or identified quality in the Development Plan) and recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services
- 7.5.43 The appeal site does not fall within any national or local landscape designation.
- 7.5.44 The appeal site is currently in agricultural use and used for grazing purposes. It is considered that the loss of agricultural land should not weigh against the appeal proposals in the planning balance.

Air Quality/Noise

- 7.5.45 Paragraph 198 of the Framework states:

"Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the

potential sensitivity of the site or the wider area to impacts that could arise from the development."

- 7.5.46 An Air Quality Assessment (CD1.16) and Noise Assessment (CD1.17) were submitted as part of the planning application for the appeal site. The findings of these reports have been reviewed by the Council's Environmental Health team, who have confirmed they have no objections to the appeal proposals subject to conditions.

Conserving and Enhancing the Historic Environment

- 7.5.47 Section 16 of the Framework provides policy guidance on the conservation and investigation of heritage assets.

- 7.5.48 At Annex 2 of the Framework, heritage significance is defined as:

"The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting."

- 7.5.49 Paragraph 215 of the Framework states:

"Where a development proposal will 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 including, where appropriate, securing its optimum viable use"

- 7.5.50 There has been less than substantial harm identified to the significance of the Market Bosworth Conservation Area. This harm is described as being at the lowest end of the spectrum. The harm identified must be weighted against the public benefits in accordance with paragraph 215. In this case the public benefits outweigh the heritage harm.

Planning Conditions and Obligations

- 7.5.51 Paragraphs 56-59 of the Framework restate previous advice on conditions and obligations and Community Infrastructure Levy charges, emphasising their impact on viability. Paragraph 57 requires conditions precedent to be avoided, unless there is clear justification. Footnote 24 of the Framework refers to a legislative requirement for applicants to provide their written agreement to the imposition of any pre-commencement conditions.
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- 7.5.52 A schedule of conditions is being discussed and agreed between the appellant and Council. A final version of the Section 106 agreement will also be provided to the Inspector in advance of the hearing, which will make provision for all infrastructure and contributions requested by statutory consultees through the planning application process, subject to fulfilling the necessary requirements of the Community Infrastructure Levy (CIL) Regulations 2010 (as amended).

Conclusion

- 7.5.53 The appeal proposals have been assessed against the various relevant chapters of the Framework, which confirms that they comprise sustainable development as a result of:

- i. Providing a deliverable housing development that will make a valuable contribution towards national and local objectives for economic growth;
- ii. Benefitting from access by public transport and other sustainable means, promoted through a Travel Plan, without giving rise to any unacceptable effects in relation to highway safety or on the operation of the road network;
- iii. Making an important contribution towards meeting the five-year housing land requirement and boosting housing delivery in the borough;
- iv. Contributing to housing choice and the mix of housing in the area; in particular making an important contribution to affordable housing needs;
- v. Being capable of delivering a beautiful high quality design;
- vi. Promoting healthy communities through integration with the existing settlement and the provision of open space;
- vii. Being located on land at low risk of flooding and ensuring that the development will not increase flood risk downstream; and
- viii. Conserving and enhancing the natural environment.

- 7.5.54 Accordingly, I consider the above demonstrates the proposals amount to sustainable development.
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APPENDIX 2:

Appendix 2- Highways Response

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STATEMENT OF CASE: HIGHWAYS						 ASHLEY HELME ASSOCIATES
Project	York Close, Market Bosworth			Project No	1764	
Contact		Originator	SJH	Date	03.07.25	

1.0 Introduction

- 1.1 Ashley Helme Associates Limited (AHA) are appointed by Gladman Developments Ltd (GDL) to provide highways/transport advice in support of the planning application for residential development on land off York Close, Market Bosworth (LPA ref 24/00831/OUT).

2.0 Involvement

- 2.1 AHA prepared the following documents that accompanied the planning application:

- (i) Transport Assessment: ref 1764/11/A (December 2024), and
- (ii) Travel Plan: ref 1764/9/B (August 2024).

3.0 Responses

- 3.1 Leicestershire County Council (LCC) are the highway authority responsible for the roads in Market Bosworth. The final LCC consultation response, dated 27 February 2025, concluded:

"The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 116 of the National Planning Policy Framework (2024), subject to the conditions and/or planning obligations outlined in this report."

- 3.2 However, AHA are aware of concerns raised at the planning committee meeting. These are addressed below.

4.0 York Close: Existing Conditions

- 4.1 York Close is a residential cul-de-sac serving 42 properties. All of the existing properties are detached and benefit from off-road parking. Site observation indicates that residential parking is generally accommodated within the driveways with little parking on carriageway.
- 4.2 York Close has a carriageway width of 5.5m. There is downhill gradient along York Close from Tudor Close towards the Site. The lowest section of York Close is relatively level.

- 4.3 There are continuous footways along both sides of the road, which are generally at least 2.0m wide and benefit from lighting. There is a sealed surface footpath that forms a walking connection between York Close and Stanley Road. Public footpath S72 offers an informal walking route to the west and forms a connection with York Close between properties Nos 39 and 46.

5.0 Proposed Site Access Arrangements

- 5.1 The proposed Site access/York Close junction arrangements are shown on Drg No 1764/17/B. The key features include:

- (i) Introduce new Site Access, forming a 'T' junction with York Close;
- (ii) Junction to operate under priority control;
- (iii) Property No 35 York Close to be demolished to form the Site access;
- (iv) Site access road to be 5.5m wide;
- (v) Introduce continuous 2.0m footway on the east side of the access road;
- (vi) Introduce 1.0m wide service strip along the west side of the access road that becomes a 2.0m wide footway after about 35m from York Close.
- (vii) Introduce dropped kerbs and tactile paving at the western footway termination point;
- (viii) Provide 2.4m x 23m visibility splay to the left, for vehicles emerging from the Site Access;
- (viii) Provide 2.4m x 37m visibility splay to the right, for vehicles emerging from the Site Access.

5.2 LCC Highway Design Guide (HDG) and Topography

- 5.2.1 The LCC HDG specifies for residential access roads that the longitudinal gradient should be:

- (i) 1:30 (maximum) for the first 10m of the access road, and
- (ii) 1:20 (maximum) thereafter.

- 5.2.2 The applicant commissioned a topographical survey of York Close, the plot of property No 35 and the Site. This confirms that there is about a 2m fall from York Close to the northern boundary of the Site over a distance of about 30m.

- 5.2.3 The applicant commissioned Jackson Purdue Lever (JPL) to examine the Site access road connection between York Close and the Site in the context of topography, neighbouring properties and LCC HDG standards. The JPL Drg No 002810-JPL-ZZ-ZZ-DR-D-2001-S2 Rev C03 shows that the longitudinal section meets LCC HDG standards for gradients. The JPL drawing also shows 6no cross sections along the access road to show how the road can be accommodated within the boundary of No 35 York Close.

- 5.2.4 The LCC consultation response of 27 February 2025 does not raise an objection with regard to the Site access geometry or vertical alignment.

5.3 Speed and Visibility Requirements

5.3.1 The residential roads surrounding the application Site are subject to a 30mph speed limit. However, actual vehicle speeds are likely to be lower than this along York Close and in the vicinity of the proposed access given the right-angled bend about 25m east to the east of the proposed Site access and the cul-de-sac termination about 20m west of the Site access.

5.3.2 Drg No 1764/17/B shows the available visibility for a driver emerging from the Site access. This demonstrates that a driver has an unobstructed view of the full width of York Close in both left and right directions.

5.3.3 The LCC consultation response of 14 November 2024 states:

"The Applicant has not undertaken a speed survey at the access location, which would usually be required for a development of such scale in order to demonstrate that the visibility splays are acceptable. Nevertheless, under the site-specific circumstances i.e. the extension of an existing cul-de-sac, the LHA accept that visibility is shown to be achievable to either side of the turning head and that a speed survey would not be required."

5.4 Stage 1 Road Safety Audit

5.4.1 The applicant commissioned a Stage 1 RSA of the proposed Site access/York Close junction and this is included in Appendix G of the TA report together with a Designer's Response report (ref 1764/10/A). The RSA identified only two problems and provided recommendations to address the issues.

5.4.2 The LCC consultation response of 27 February 2025 states:

"As previously requested by the LHA, a RSA1 of the site access proposals has now been undertaken and is included within Appendix C of the TA. This highlights two problems with the site access design, including a lack of Road Restraint System alongside the proposed retaining wall and a lack of swept path analysis for appropriate vehicles."

"The LHA accepts the Designer's Response that appropriate safety measures can be considered alongside the retaining wall at detailed design, in the event the proposals are granted planning permission by the LPA. The retaining wall will require further consideration at detailed design. SPA has also been submitted by the Applicant using a refuse collection vehicle length of 11.2m, with the Applicant confirming a design speed of 15kph. "

6.0 Suitability of York Close to Serve Additional Housing

6.1 Table DG1 of the LCC HDG specifies the following residential road criteria:

- | | |
|------------------------------------|--|
| (i) Major Residential Access Road: | Normally no more than 400 dwellings from a single point of access, |
|------------------------------------|--|

Carriageway width of 6.75m,

- | | |
|-------------------------------|---|
| (ii) Residential Access Road: | Normally no more than 150 dwellings from a single point of access,
Carriageway width of 4.8m (up to 50 dwellings),
Carriageway width of 5.5m (up to 400 dwellings), |
| (iii) Residential Access Way: | Normally no more than 25 dwellings from a single point of access,
Overall corridor width of 7.5m. |

- 6.2 Based on the above, York Close most closely resembles the characteristics of a Residential Access Road. York Close currently serves 42 properties. The proposed development will result in the demolition of No 35 York Close and the construction of up to 100 new dwellings. This would mean that York Close serves up to 141 dwellings. This would be under the LCC HDG threshold of 150 dwellings from a residential access road. Therefore, it is reasonable to conclude that York Close is suitable to serve the proposed development.

7.0 Emergency Access

- 7.1 Based on advice in the LCC HDG, there is no requirement for proposed development to form an emergency access. This accepted in the LCC consultation response of 14 November 2024, which states:

"There are two points of access to York Close via Tudor Close and two points of access to the wider residential estate off Station Road via Weston Drive and Southfield Way. Access to the estate is also available from Shenton Lane via Warwick Lane. On this basis, the LHA advise that it considers there is no requirement for an emergency access to the proposed development off Shenton Lane."

8.0 Suitability of the Wider Road Network

- 8.1 York Close forms a junction with Tudor Close, which is a residential road aligned between Lancaster Avenue and Stanley Road. This means that residents of the proposed development may complete arrival or departure movements by either of the two routes. Both Lancaster Avenue and Stanley Road form connections with Weston Drive, which again offers route choices to/from either Station Road or Haven Road. Haven Road offers further route choices to Station Road, or Warwick Lane, via Southfield Way. Therefore, there are 3no access/egress point between the existing residential area surrounding the application Site and the wider Market Bosworth highway network at Weston Drive, Southfield Way and Warwick Lane. There is also a network of residential roads that offer multiple route choices. This means that traffic generated by the proposed development will be dispersed across several roads.
- 8.2 The LCC consultation response of 14 November 2024 also comments on the roads in the wider estate. The LCC response states:

"As part of the site visit mentioned above, the LHA has measured carriageway widths for all potential through routes to the site throughout the wider estate and, with the exception of a section of Warwick Lane, is satisfied that all are a minimum of 5.50m wide. Weston Drive is also in excess of 6.40m wide between its junction of Haven Road and Station Road.

The LHA is aware that some of the estate roads are used for parking at school pick up/ drop off times, notably Weston Drive, Southfield Way and Warwick Lane. This was witnessed on the site visit, which was undertaken in the AM peak hour to understand current demand in the area.

Junction protection in the form of 'No Waiting At Any Time' (double yellow line) parking restrictions are in place at the junctions of Weston Drive and Southfield Way with Station Road. On the site visit several drivers turned around in the Weston Drive/ Westhaven Court junction to drop off pupils and a few drivers were parked along Weston Drive. There did not, however appear to be a congestion issue during the time of the site visit.

In addition, the LHA witnessed parking and traffic along Warwick Lane and Southfield Way which was clearly associated with dropping off pupils for the nearby schools. The LHA note that whilst there would be an increase in traffic using Southfield Way from the proposed development up to its junction with Warwick Lane, this would split at the junction and there would be a comparable or lower level of development traffic forecast to use both Southfield Way and Warwick Lane during both the AM and PM peaks in comparison to the previous application at the site.

Given the above, the LHA is satisfied that an emergency access is not required to the site and that the access route is suitable to accommodate the additional development traffic in accordance with LHDG guidance."

9.0 Traffic Impact Testing

9.1 The Transport Assessment (ref 1764/11/A) that accompanied the planning application considered the traffic impact of the proposed development at a total of 11 no junctions across Market Bosworth. The TA network included the following junctions, which are the entry/egress points for the residential area surrounding the Site. These will be used by vehicles generated by the proposed development:

- (i) Weston Drive/Station Road (SJ1),
- (ii) Warwick Lane/Shenton Lane (SJ7), and
- (iii) Southfield Way/Station Road/Back Lane (SJ8).

9.2 Traffic counts were undertaken in May 2024. May is considered to be a neutral month for traffic surveys and the recorded traffic flows can be taken to be representative of normal conditions. LCC highways officers have not raised any concerns about the traffic count data.

9.3 Junction modelling confirms that each of the study junctions listed above will operate with high levels of spare capacity and with negligible queuing upon implementation of the proposed

development. Therefore, there is no evidence to suggest that the proposed development will materially affect the safe functioning of the surrounding residential roads or junctions.

10.0 Shenton Lane

10.1 The Stage 1 RSA of the proposed pedestrian/cycle access on Shenton Lane is included in Appendix G of the TA report (ref 1764/11/A) together with a Designer's Response report (ref 1764/12). The RSA identified only three problems and provided recommendations to address the issues.

10.2 AHA has carefully considered the problems and recommendations of the Stage 1 Safety Audit Report.

10.3 The LCC consultation response, dated 27 February 2025, states:

"The first problem relates to visibility and cutting back of vegetation, while the second problem relates to a lack of a barrier to prevent pedestrians running out on to Shenton Lane. The Applicant has accepted these problems and would seek to cut back vegetation and provide a guardrail at detailed design. The LHA advise that on the basis recorded 85th percentile vehicle speeds for this site are 42 mph and 42.9 mph, visibility splays of 120m in accordance with Table 6 of the LHDG should be provided. The LHA accepts that such splays could be achieved within the extents of the highway boundary.

The third problem highlights a lack of a pedestrian footway and street lighting between the site and existing provisions along Shenton Lane. The RSA1 recommends the Applicant provides a footway/ street lighting along Shenton Lane if it is proposed to be used by pedestrians. The Applicant has not accepted the recommendation and provided a detailed response as to why within the Designer's Response (section 2.3.5 of the TA). This considers:

- The existing walking routes to the vast majority of local amenities via York Close and the surrounding residential area and that Shenton Lane is not as likely to be a high use walking corridor for residents;*
- The low level of traffic which uses Shenton Lane and existing carriageway widths would leave sufficient space for vehicles to pass pedestrians should they choose to walk down Shenton Lane;*
- PIC data not indicating any incidents involving pedestrians; and*
- The previous appeal decision, where the Planning Inspector considered the highway works to provide a footway would have an urbanising effect along Shenton Lane*

Whilst the LHA advise it is disappointing that a footway is not proposed along Shenton Lane, the Applicants Designer's Response is accepted. Given the alternative pedestrian routes available, the LHA consider it would be difficult to resist the proposals based on the lack of footway along Shenton Lane. Notably, the pedestrian desire line to local schools and bus services, subject to the route being extended, would be to the north of the site."

11.0 **Summary**

- 11.1 It is concluded that the proposed development is in accordance with national and local transport policies, and that there are no transport/highways reasons to prevent development coming forward.

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APPENDIX 3:

Appendix 3- Heritage Response

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Land North of Shenton Lane, Market Bosworth

24/00831/OUT **DRAFT**

Response on Heritage

Date: 24/06/2025

Introduction

- 1.1. This note sets out a response with regards to heritage matters relating to Application 24/00831/OUT for the residential development of a site north of Shenton Lane, Market Bosworth.

2. The Application

- 2.1. The Application was validated on the 2nd September 2024 and was for:

Outline planning application for the erection of up to 100 dwellings (including 40% affordable housing) with public open space, landscaping, sustainable drainage system (SuDS), a vehicular access point and the demolition of one residential dwelling. All matters reserved except for means of access (re-submission of 22/00167/OUT)

- 2.2. It was accompanied by a Heritage Statement produced by Pegasus Group, which concluded:

- With regards to Market Bosworth Conservation Area, only less than substantial harm at the very lowermost end of the spectrum is anticipated.
- The loss of the extant ridge and furrow within the site would represent the removal of a small part of the overall non-designated heritage asset of lower significance. As a result, the proposals are only anticipated to a minor level of harm to the significance of this non-designated heritage asset of lower significance.
- No significant below ground archaeology was recorded during trial trenching of the site.

3. Consultee Response – Archaeology

- 3.1. Archaeological advice was received from Mr William Kelly, Senior Planning Archaeologist (Heritage) at Leicestershire County Council, in an email dated 23rd October 2024.

- 3.2. With regards to below ground archaeology, Mr Kelly noted that:

In response to the previous planning application the applicant submitted a desk-based Assessment, geophysical survey and undertook a trial trenching evaluation (report appended to the Archaeology and Heritage Statement submitted 02/09/2024). We can confirm that the evaluation did not identify any significant archaeological buried remains and would advise that no further mitigation would be required in this respect. (our emphasis)

- 3.3. With regards to the ridge and furrow earthworks present on the site, Mr Kelly noted that the loss of the earthworks whilst regrettable was a matter for the planning balance. Mr Kelly

requested further mitigation investigations of the remains, specifically to provide dating evidence and record particular areas and features of the system.

- 3.4. Mr Kelly recommended these works could be secured through a condition, as follows:

No demolition/development shall take place/commence until a written scheme of investigation (WSI) has been [submitted to and] approved by the local planning authority in writing. For land that is included within the WSI, no demolition/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.*

Reason: To ensure satisfactory archaeological investigation and recording

The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Planning Authority. To demonstrate that the implementation of this written scheme of investigation has been secured the applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor.

The Historic and Natural Environment Team, as advisors to the planning authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the planning authority.

- 3.5. As such, Mr Kelly did not recommend that planning permission was withheld on heritage grounds, rather that the harm identified was a matter for the planning balance.

4. Consultation Response – Built Heritage

- 4.1. A consultee response on Built Heritage was received from Mr Paul Grundy, dated 19th February 2025.

- 4.2. This stated with regards to Conservation matters that:

I am in agreement with the Heritage Statement in that a review of listed buildings and scheduled monuments located within the wider area of the application site has not identified any assets considered to be potentially sensitive to adverse impacts as a result of the development proposal on the basis of factors including distance, absence of intervisibility and/or an absence of key historic or functional relationships between the site and the assets.

- 4.3. With regards to the Market Bosworth Conservation Area, Mr Grundy stated:

“As summarised above, the proposed scheme has been revised so that vehicular access is now from York Close, removing the access and associated highway works on Shenton Lane. Built form is no longer proposed in the south-eastern field of the site, which will instead be meadow with structural planting. I am therefore in agreement with the impact assessment contained within the submitted Heritage Statement (section 2.27), in that due to the very modest change of the view from Shenton Lane, the proposed

development is anticipated to cause less than substantial harm at the very lowermost end of the spectrum for the Market Bosworth Conservation Area.”

- 4.4. Mr Grundy also confirmed in his consultation response that he considered that the impact to the ridge and furrow earthworks would be a minor level of harm to a non-designated heritage asset.
- 4.5. As such, Mr Grundy did not recommend that planning permission was withheld on heritage grounds, rather that the harm identified was a matter for the planning balance.

5. Parish Council Response

- 5.1. The Parish Council response, as reported in the Committee Report, stated:

“Character and heritage – the application sits in open countryside between Stanley Road and Shenton Lane which provides an open vista of Ambion Hill and the symbolic flags of the site of the Battle of Bosworth. Shenton Lane is one of the few characteristic narrow rural lanes that help define the character of the area and provide a genuine feel and flavour of the rural way of life on approaching and leaving the town. The development would have a significant urbanising effect as the development would encroach on land towards the edge of Shenton Lane and intrude into the visual amenity from priory Lane, thus changing the character and important and hitherto unspoilt area of the parish.

Character approach into the conservation area – the site sits in very close proximity to the conservation area. Whilst the development does not propose any access or egress to Shenton Lane the development sits on land which is eminently visible from several approaches to the town. The approach towards the town along Shenton Lane quintessentially represents the unique transition from countryside to town centre and which is a key feature in the HBBC Landscape and Character Assessment and in the MBNP. The proposed development would be at odds with the context, rationale and strategic approach to planning policies in respect of open countryside in all relevant documents relating to Market Bosworth.”

- 5.2. With regards to the above, it is strongly disputed that the proposed development would have ‘a significant urbanising effect’. The assertion of such is at odds with the Inspector’s Decision for the previously Appealed scheme, which concluded at paragraph 36 that residential development in the larger field of the site would not be harmful to the Conservation Area:

“The majority of the appeal site is an appreciable distance from the Conservation Area (CA) and is separated from it by areas of modern housing. Whilst glimpse views of the site would be possible from the public footpath from the west and from between the houses on York Close and Stanley Road it would not be seen in the context of the CA. Therefore, this part of the site would not have an effect on the significance of the CA.”

- 5.3. The Inspector later concluded that the then proposed residences within the smaller field adjacent to Shenton Lane would ‘have a slight effect on the significance of the CA as they would dilute the rural/countryside approach to it as outlined in the CAA’ (paragraph 39).
- 5.4. Rather than residential development in the smaller field, the current Appeal scheme proposes public open space with meadow/structural planting. This would result in a far lesser degree of harm to the Conservation Area. This would comprise the lowermost level of less than substantial harm.

6. Committee Report and Decision

- 6.1. With regards to the loss of the ridge and furrow, the Committee Report stated:

Given that the earthworks should be considered holistically 'as part of the other ridge and furrow present around the town' (as per the Inspector's conclusion for the appeal) the loss of the extant ridge and furrow within the site would represent the removal of a small part of the overall non-designated heritage asset. In agreement with the impact assessment contained within the submitted Heritage Statement (section 3.19), it is that the proposals are anticipated to result in a minor level of harm to the significance of this non-designated heritage asset.

- 6.2. There is not dispute between the Appellant and the LPA on this matter.

- 6.3. With regards to Built Heritage, the Committee Report concluded:

"Built form is no longer proposed in the south-eastern field of the site, which will instead be meadow with structural planting. Officers agree with the impact assessment contained within the submitted Heritage Statement (section 2.27), in that due to the very modest change of the view from Shenton Lane, the proposed development is anticipated to cause less than substantial harm at the very lowermost end of the spectrum for the Market Bosworth Conservation Area."

- 6.4. There is no dispute between the Appellant and the LPA on this matter.

- 6.5. The application was refused on 18th June 2025. Heritage did not form the basis of a Reason for Refusal.

7. Conclusions

- 7.1. There are no matters in dispute with regards to heritage between the Appellant and the LPA.

- 7.2. The assessment of the Parish Council with regards to the Conservation Area is not accepted, and is considered to be contrary to the conclusions of the Inspector with regards to the previously appealed scheme.

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