

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

**WRITTEN STATEMENT OF CASE
ON BEHALF OF
THE LOCAL PLANNING AUTHORITY**

PLANNING APPEAL BY MR D WINTER

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE CHANGE OF USE OF
AGRICULTURAL LAND TO PROVIDE 4NO GYPSY AND TRAVELLER PITCHES
INCLUDING DAY ROOMS WITH ASSOCIATED LANDSCAPING. (RE-SUBMISSION
23/00655/FUL)**

AT:

**LAND SOUTH OF NORMANDY WAY A47, ADJACENT 12 NEWQUAY CLOSE,
HINCKLEY, LEICESTERSHIRE, LE10 1XN**

**HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE:
24/00016/FUL**

**THE PLANNING INSPECTORATE REFERENCE:
APP/K2420/W/24/3343996**

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1. INTRODUCTION

- 1.1. This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission for the change of use of agricultural land to provide four gypsy and traveller pitches, including day rooms, with associated landscaping, at the Land south of Normandy Way ('A47') and adjacent to 12 Newquay Close, Hinckley, Leicestershire, LE10 1XN.

2. APPEAL SITE AND PROPOSAL

The Appeal Site

- 2.1. The 0.87ha appeal site is a vacant agricultural field that is largely screened by mature vegetation along its boundaries. The site is located adjacent to, but outside of, the northeast settlement boundary of Hinckley within the Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge ('Green Wedge').
- 2.2. The appeal site is located within Character Area F (Burbage Common Rolling Farmland) of the Council's Landscape Character Assessment (LCA) (2017). Two of the key characteristics of this location include the influence of the urban fringe as a result of the exposed settlement edges of Hinckley and Earl Shilton, and the presence of the Green Wedge. Ultimately, one of the key sensitivities of this Character Area is the rural character and undeveloped countryside landscape of the Green Wedge.
- 2.3. Paragraph 4.28 of the adopted Core Strategy states that the Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge protects the individual identities of three settlements and provides easy access from the urban areas into green spaces, which contributes towards the quality of life for residents in these urban areas. This Paragraph within the adopted Core Strategy also emphasises that, *"Maintaining the Green Wedge is an important part of protecting the green infrastructure of the Borough."* This is further referenced within Policy 20 of the adopted Core Strategy, which states that the Green Wedge, *"Plays an important environmental and landscape protection role."*
- 2.4. Additionally, Paragraph 4.28 of the adopted Core Strategy highlights that there are opportunities within the Green Wedge for enhancement to further increase its amenity as well as ecological value.
- 2.5. The Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge Review (GWR) (2020) highlights the application site within Area F (Land between Normandy Way and Leicester Road) of the Green Wedge. The GWR notes that the west of Area F is more agricultural in nature and that this area of the Green Wedge between Hinckley and Barwell is at one of its narrowest points and is therefore particularly sensitive in relation to the coalescence of these settlements. Whilst Area F of the GWR has a number of recreational opportunities, the GWR notes that many of the areas within this area are privately owned and do not have open public access.

- 2.6. There are residential properties to the south and west of the site within the identified settlement boundary of Hinckley, but there are open agricultural fields to the east and to the north beyond Normandy Way (A47). Beyond the agricultural fields to the north are residential dwellings within the settlement boundary of Barwell.
- 2.7. The appeal site is accessed by, and bounded by, Normandy Way (A47) to the north of the site. Normandy Way (A47) is an adopted and classified 'A' road that is subject to the National Speed Limit at the entrance to the site. The A47 is a single carriageway road that is a key strategic link between Leicester and the A5 (Hinckley). In the vicinity of the appeal site, the A47 has an off-carriageway footway/ cycleway that is unlit.

The Appeal Proposal

- 2.8. This appeal proposal seeks full planning permission for the change of use of existing agricultural land to provide four gypsy and traveller pitches including day rooms and associated landscaping at the Land south of Normandy Way ('A47') and adjacent to 12 Newquay Close, Hinckley.
- 2.9. Each residential pitch includes one static caravan, one touring caravan, one day room, private outdoor residential amenity, and off-street parking provision. These residential pitches are distinguished by new 1.8m high close boarded timber fencing.
- 2.10. Each day room externally measures 6m in width by 4m in depth, which includes kitchen and living areas, a bathroom, and a utility. These structures have a pitched roof with a ridge height of 4.5m, and an eaves height of 2.3m, and are constructed in fair faced block, painted grey, with vertical timber board on their front elevations, and concrete roof tiles.
- 2.11. The development also provides 273.4sqm of play area, a 123.5sqm hardstanding bin store area, and 1,854.7sqm of additional deciduous tree planting on the northern and western edges of the site. The detail of this planting is to be confirmed. The width of the site access is also enlarged from 3.4m to 6m.
- 2.12. This appeal proposal is a resubmission of refused planning application, 23/00655/FUL, and no amendments have been made to the design of the scheme since this original planning application was determined.

3. SITE HISTORY

3.1 23/00655/FUL

- Change of use of land of agricultural land to provide 4no gypsy and traveller pitches including day rooms with associated landscaping.
- Refused
- 24.08.2023

This application was refused for the following reasons:

1. The proposal results in significant harm to the intrinsic value, beauty, open character, and landscape character of the countryside, in principal and by virtue of the domestication and urbanisation of the site. Consequently, this scheme also fails to the protect the role and function of the designated Hinckley/Barwell/Earl Shilton/Burbage Green Wedge, which also detrimentally affects its character. Ultimately, it is considered that these adverse impacts significantly and demonstrably outweigh the benefits of the scheme in these site-specific circumstances. Therefore, the development is contrary to, and in conflict with the Good Design Guide (2020), Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Sections 6, 18, and 20 of the adopted Core Strategy (2009), as well as Section 15 and the overarching principles of the National Planning Policy Framework (2021).
2. This proposal results in an intensification of vehicular movements turning onto and off the A47 Normandy Way, which is a busy, high-speed road, where the turning manoeuvres are likely to be an additional source of danger to road users. As a result, the residual cumulative impacts of the development are considered to be severe, contrary to, and in conflict with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy IN5 of the Leicestershire Highway Design Guide (2020), and Paragraphs 110 and 111 of the National Planning Policy Framework (2021).
3. The Applicant has failed to demonstrate that an appropriate and safe vehicular access can be provided for the proposed development contrary to, and in conflict with Paragraphs 110 and 111 of the National Planning Policy Framework (2021).

It is noted by the Local Planning Authority that the reference to, “*Sections*,” of the adopted Core Strategy within the first Reason for Refusal is in error, and should refer to Policies 6, 18, and 20 of the adopted Core Strategy.

4. NATIONAL POLICIES

- 4.1 National Planning Policy Framework (NPPF) (December 2023).
- 4.2 Planning Policy for Traveller Sites (PPTS) (2015)
- 4.3 National Planning Practice Guidance (PPG).
- 4.4 National Design Guide (NDG) (2019).

5. LOCAL POLICIES

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

5.2 Core Strategy (2009):

- Policy 1: Development in Hinckley
- Policy 6: Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge
- Policy 18: Provision of Sites for Gypsies, Travellers, and Travelling Show People
- Policy 20: Green Infrastructure

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highway and Transportation
- Policy DM18: Vehicle Parking Standards

5.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge Review (GWR) (2020)
- Hinckley and Bosworth Gypsy and Traveller Accommodation Assessment (GTAA) (2016)
- Landscape Character Assessment (LCA) (2017)
- Leicestershire Highway Design Guide (LHDG) (2022)

6. THE CASE FOR THE LOCAL PLANNING AUTHORITY

6.1 The planning application was refused on 19 April 2024 under delegated powers for the following reasons:

1. The development results in permanent and significant adverse impacts to the rural character and undeveloped nature of the application site, the wider Burbage Common Rolling Farmland Character Area, the Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge, and the intrinsic value, beauty, open character, and landscape character of the countryside. As a result, the development fails to protect the role and function of the designated Green Wedge. Ultimately, it is considered that the significant adverse impacts of the development significantly and demonstrably outweigh the benefits of the scheme in these site-specific circumstances. Consequently, the development is contrary to, and in conflict with, the Good Design Guide (2020), Policies

DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Sections 6, 18, and 20 of the adopted Core Strategy (2009), as well as Sections 12 and 15 and the overarching principles of the National Planning Policy Framework (December 2023).

2. This proposal, if permitted, would lead to an intensification of vehicular movements turning onto and off the A47 Normandy Way, which is a busy high-speed road, where the turning manoeuvres could be an additional source of danger to road users, which is not in the interests of highway safety. As a result, the residual cumulative impacts of the development are serve, which is contrary to Policy 17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy IN5 of the Leicestershire Highway Design Guide, and Paragraphs 114 and 115 of the National Planning Policy Framework (NPPF) (December 2023).

It is noted by the Local Planning Authority that the reference to, “*Sections*,” of the adopted Core Strategy within the first Reason for Refusal is in error, and should refer to Policies 6, 18, and 20 of the adopted Core Strategy.

- 6.2 It is considered that the main planning issues in relation to this appeal are the adverse effects of the proposed development on the character of the appeal site, the surrounding area, the wider Burbage Common Rolling Farmland Character Area, the Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge (Green Wedge), and the intrinsic value, beauty, open character and landscape character of the countryside, and the impact of this development on highway safety as a result of the intensification of vehicular movements onto a classified ‘A’ road.

- 6.3 The Appellant’s Statement of Case focuses on the following elements:

- The assessment of the Development Plan and National Planning Policy against the policies within the Planning Policy for Traveller Sites.
- The impact of the development on the character, appearance, and function of the Green Wedge.
- The impact of the development on the character and appearance of the surrounding area.
- The impact of the development on the character and appearance of the countryside.
- The impact of the development on highway safety.
- The residual cumulative impact of the development on the highway network.
- The weight of material considerations within the planning balance.

These concerns are addressed within this Statement of Case.

- 6.4 It is noted that the discussion of highways matters within this appeal shall be undertaken by the Local Highway Authority in a separate Statement of Case.

The Assessment of the Development Plan and National Planning Policy Against the Policies within the Planning Policy for Traveller Sites

Planning Policy for Traveller Sites (PPTS):

- 6.5 Paragraphs 1.6 and 2.41 of the Appellant's Statement of Case highlights that the Planning Policy for Traveller Sites (PPTS) (2015) was not referenced within the reasons for refusal of planning application 24/00016/FUL and suggests that the LPA found no conflict with the policy guidance within the PPTS.
- 6.6 The LPA notes that Policy H of the PPTS, which is the key policy for determining planning applications for traveller sites, does not feature any wording that suggests planning applications can be contrary to, nor compliant with, its requirements.
- 6.7 For example, the PPTS requires local planning authorities to consider issues (Paragraph 24 of the PPTS), to attract weight to matters (Paragraph 26 of the PPTS), and to consider how planning objections might be overcome through the use of planning conditions (Paragraph 28 of the PPTS).
- 6.8 Therefore, it is not considered that any of the policies within the PPTS were required to be included within the reasons for refusal of planning application 24/00016/FUL, nor is it considered necessary to identify any conflict with the policies of the PPTS within this appeal, because the PPTS only requires the LPA to consider, and to give appropriate weight to, material considerations in accordance with Planning Law.

The Development Plan and National Planning Policy:

- 6.9 Importantly, Paragraph 2 of both the National Planning Policy Framework (NPPF) (December 2023) and the PPTS state that Planning Law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 6.10 The adopted Core Strategy and the SADMP form part of the LPA's Development Plan. Paragraph 11.2 of the SADMP states that it is important that the policies within the SADMP are read together as a whole along with the strategic policies within the adopted Core Strategy.
- 6.11 Paragraph 2 of both the NPPF and the PPTS state that these documents are a material consideration in planning decisions. Paragraph 4 of the NPPF and Paragraph 1 of the PPTS state that both documents should be read in conjunction. Paragraph 3 of the NPPF states that the Framework should be read as a whole.
- 6.12 Paragraph 23 of the PPTS confirms that applications should be assessed and determined in accordance with the presumption in favour of sustainable development and the application of specific policies in the National Planning Policy Framework and the PPTS. Paragraph 30 of the PPTS also states that the implementation of policies set out in the NPPF will apply to decision making for traveller sites.

- 6.13 To summarise, the Development Plan is the starting point for decision making in determining planning applications, and the policies within the Development Plan, including those policies within the adopted Core Strategy and the SADMP, should be read as a whole. The NPPF and the PPTS are material considerations within the determination of planning applications and should be read in conjunction with each other and read as a whole.

Policy DM4 of the SADMP:

- 6.14 Paragraph 13.2 of the SADMP confirms that:

“The countryside in Hinckley and Bosworth is hugely important to the character and identity of the area. All efforts will be made to protect the intrinsic value, beauty, open character of the countryside.”

- 6.15 Following this, Paragraph 13.2 of the SADMP states that:

“Beyond the defined settlement boundaries, development will be restricted to proposals which fulfill the criteria of [Policy DM4 of the SADMP.]”

- 6.16 Therefore, it is clear that development sites that are outside of the identified settlement boundaries of the Borough, such as the appeal site, are considered to be in the open countryside, and should be assessed against the planning policies in Local and National Planning Policy that are associated with development in the countryside.

- 6.17 Contrary to the assertions of the Appellant in Paragraph 2.2 of their Statement of Case, Appendix 2 of their submitted Statement of Case clearly demonstrates that the appeal site is not within the edge of the settlement boundary of Hinckley. Furthermore, the Appellant has previously confirmed within their Planning Statement, which was submitted with the planning application, that the appeal site is outside of any identified settlement boundary. Therefore, the appeal site is considered to be in the open countryside and should be assessed against the planning policies restricting development in these areas in accordance with Local and National Planning Policy.

- 6.18 Whilst the Appellant attempts to justify that Development Plan Policies are not compliant with the PPTS, as suggested within Paragraph 1.10 of their Statement of Case, the Appellant does not seek to deny that Development Plan Policies, such as Policy DM4 of the SADMP, are consistent with the NPPF within their Statement of Case.

- 6.19 As agreed by the Appellant at Paragraph 2.6 of their Statement of Case, the Criteria (a) to (e) of Policy DM4 of the SADMP, *“Is not a closed list of permissible development in the countryside.”* The LPA have not sought to deny this fact.

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- 6.20 This is further acknowledged by the fact that Policy 18 of the adopted Core Strategy, states that planning permission for new gypsy and traveller sites can be granted providing that the site is within or adjacent to the settlement boundary of Hinckley, and that other criteria identified within the Policy are met. For example, Policy 18 of the adopted Core Strategy also requires development sites to have safe highway access and to be capable of sympathetic assimilation into the surrounding area, which is in accordance with Policies DM4 and DM17 of the SADMP.
- 6.21 In light of the above, the LPA disagrees with the notion that there is any, “*Clear tension*,” between Policy DM4 of the SADMP and Policy 18 of the adopted Core Strategy. The LPA also disagree that there is any conflict between Policies 6 and 18 of the adopted Core Strategy because in order to sympathetically assimilate into the surrounding area, as required by Policy 18 of the adopted Core Strategy, it is clear that development sites within the Green Wedge must comply with the requirements of Policy 6 of the adopted Core Strategy. It is therefore considered by the LPA that the Appellant is not reading the Development Plan in full, as required by Paragraph 11.2 of the SADMP, and consequently is erroneously underappreciating the relevance, and the importance, of the Green Wedge within Local Planning Policy.
- 6.22 To summarise, to protect its intrinsic value, beauty, open character, and landscape character the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where it complies with one of the criteria (a) to (e) of Policy DM4 of the SADMP. Whilst the initial criteria of Policy DM4 of the SADMP is not definitive on the acceptability of a proposal, this does not suggest that the further requirements of Policy DM4 of the SADMP can be disregarded, as suggested by Paragraph 2.8 of the Appellant’s Statement of Case.
- 6.23 On the contrary, to safeguard the important character of the countryside from unsustainable development, proposals must not have a significant adverse effect on intrinsic value, beauty, open character, and landscape character of the countryside, in accordance with Policy DM4(i) of the SADMP, and proposals must ensure that they protect the role and function of the Green Wedge to comply with Policy DM4(v) of the SADMP. These criteria are of great importance in the determination of proposals in areas outside of identified settlement boundaries to safeguard the character of the countryside from unsustainable development and attract significant weight in the planning balance due to their compliance with the NPPF.
- 6.24 As per Paragraph 8.95 of the Delegated Officer’s Report, although the PPTS does not preclude development in, “*Rural areas*,” this does not suggest that National Planning Policy is supportive of sites in these areas, nor that schemes in these areas are compliant with the PPTS. On the contrary, Paragraph 25 of the PPTS states that:
- “Local Planning Authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the Development Plan.”*
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- 6.25 It is also noted that sites within rural areas can still be within identified settlement boundaries. The Appellant has failed to consider this factor within their assessment of the appeal proposal against Local and National Planning Policy.
- 6.26 Although the Appellant suggests that Paragraph 8.8 of the Delegated Officer's Report and Section 15 of the NPPF do not have regard to the provisions of the PPTS and the three dimensions of sustainable development, this accusation fails to acknowledge the planning balance assessment of the proposal within the Report. For clarity, the sustainability of the location of the appeal site to amenities and facilities was not disputed within the reasons for the refusal of the application, nor within the Delegated Officer's Report.
- 6.27 In addition, Paragraph 8.17 of the Delegated Officer's Report confirms that the acceptability of the development is subject to the assessment of all other material considerations. For emphasis, Paragraph 2 of both the NPPF and the PPTS state that these documents are material considerations in planning decisions. In light of the above, Policy DM4 of the SADMP is in accordance with Policies 6 and 18 of the adopted Core Strategy and these policies do not conflict with the requirements of National Planning Policy, including the PPTS.

Policy DM10 of the SADMP:

- 6.28 The Appellant's Statement of Case raised no concerns with the consistency of Policy DM10 of the SADMP with National Planning Policy.
- 6.29 Although the Appellant has stated that proposals, "*Should not expect to be completely hidden*," this is not a requirement within Policy DM10 of the SAMDP, nor Paragraph 26 of the PPTS, and such a requirement has never been suggested within the Delegated Officer's Report.

Policies 6 and 20 of the adopted Core Strategy:

- 6.30 Paragraph 8.1 of the Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge Review (GWR) (2020) confirms that the Green Wedge is a multi-functional designation that:
- Provides recreational opportunities for the local and wider community; and
 - Performs an agricultural role; and
 - Is a haven for flora and faunal; and
 - Provides links into the countryside from the urban areas providing connectivity.
- 6.31 Paragraph 4.28 of the adopted Core Strategy states that maintaining the Green Wedge is an important part of protecting the green infrastructure of the Borough, and that there are opportunities within the Green Wedge for enhancement to further increase its amenity as well as its ecological value.

6.32 The NPPF defines green infrastructure as:

“A network of multi-functional green and blues spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local wider communities and prosperity.”

6.33 Policy 20 of the adopted Core Strategy confirms that the green infrastructure within the Green Wedge should be maintained because it plays an important environment and landscape protection role within the Borough.

6.34 Ultimately, whilst Policy 6 of the adopted Core Strategy encourages appropriate recreational facilities within easy reach of urban residents, contrary to Paragraph 2.17 of the Appellant’s Statement of Case, the main requirements of the Policy are that any land use or associated development in the Green Wedge should:

- (a) Retain the function of the Green Wedge; and
- (b) Retain and create green networks between the countryside and open spaces within the urban areas; and
- (c) Retain and enhance public access to the Green Wedge, especially for recreation; and
- (d) Should retain the visual appearance of the area.

6.35 As emphasised previously within this Statement of Case, the Development Plan and its policies must be read as a whole. In spite of this, the Appellant claims at Paragraph 2.26 of their Statement of Case that residential pitches for gypsies and travellers are an acceptable use in the Green Wedge by virtue of their absence from the criteria within Policy 18 of the adopted Core Strategy.

6.36 Although Policy 18 of the adopted Core Strategy, *“Quite clearly states,”* that sites will be granted, *“Within or adjacent to the settlement boundary of Hinckley, Burbage, Barwell, and Earl Shilton,”* the Appellant has failed to read the Policy as a whole. Crucially, whilst new gypsy and traveller sites must be within or adjacent to identified settlement boundaries or within a reasonable distance of local services and facilities, the final five bullet points of Policy 18 of the adopted Core Strategy require that new gypsy and traveller sites must:

- Have safe highway access, including provision for parking and servicing; and
- Be capable of sympathetic assimilation into the surroundings; and
- Be an appropriate scale to the nearest settlement and its local services and infrastructure; and
- Not cause unacceptable nuisance to existing neighbours by virtue of noise and other disturbance caused by movement of vehicles to and from the site; and
- Be appropriate to provide a safe and healthy environment for residents.

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- 6.37 The assessment of the Appellant is considered by the LPA to clearly and deliberately ignore how the planning policies within the Development Plan should be appropriately utilised in the assessment of this proposal, and how both Local and National Planning Policies are applied when determining planning applications. Whilst this assessment only relates to three Development Plan policies in this instance, this is considered to be telling evidence of the Appellant's tendency to selectively consider Local and National Planning Policies rather than to read them as a whole, as required by Paragraph 11.2 of the SADMP and Paragraph 3 of the NPPF.
- 6.38 Although Paragraph 2.19 of the Appellant's Statement of Case highlights their concerns with the compatibility of Policy 6 of the adopted Core Strategy with the NPPF, the Appellant has not provided any explanation for this assertion.
- 6.39 The Appellant has also attempted to argue that the Green Wedge near the appeal site cannot be considered to serve as a, "*Green lung*," due to the presence of the A47. Whilst the A47 is a key characteristic of the area, the LPA do not consider this to be appropriate justification for disregarding the importance of the function of the Green Wedge in this location.
- 6.40 Furthermore, the Appellant suggests that the appeal site does not attract the same weight as international and nationally designated sites. This has never been the argument for the LPA. On the contrary, Paragraphs 8.15 and 8.16 of the Delegated Officer's Report clearly state that the Green Wedge is a locally designated area that does not perform the same function as a Green Belt or an Area of Outstanding Natural Beauty. As a result, Policy E of the PPTS is not applicable to this appeal site.
- 6.41 It is therefore apparent that the only conclusion that the LPA can take from the Appellant's Statement of Case is that the Appellant has misunderstood the meaning of the Green Wedge, and therefore has erroneously underappreciated its value within their Statement of Case. This is further evidenced by the Appellant's suggestion at Paragraph 2.27 of their Statement of Case that the proposal for residential development within the appeal site would retain the function of the Green Wedge. Notably, the Appellant has not provided any justification to suggest how this scheme would achieve this outcome.
- 6.42 The Appellant's misunderstanding of the Green Wedge is evident by the Appellant's lack of assessment of the Council's Landscape Character Assessment (LCA) (2017) and the GWR's appraisal of the appeal site and its surrounding area.
- 6.43 One of the key sensitivities of Character Area F within the LCA is the rural character and undeveloped landscape of the Green Wedge. Whilst the appeal site is influenced by the urban fringe as a result of the exposed settlement edges of Hinckley, the undeveloped nature of the site and the presence of the Green Wedge are still the predominant characteristics of the site. This is supported by the fact that the GWR confirms that this area of the Green Wedge is one of the narrowest parts of the Green Wedge and is sensitive to change.
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- 6.44 Therefore, Policies 6 and 20 of the adopted Core Strategy do not conflict with, and instead are consistent with, the requirements of National Planning Policy, including the PPTS, and therefore due weight should be given to these policies in the determination of this planning appeal.

Policy 18 of the adopted Core Strategy:

- 6.45 As highlighted by Paragraph 2.26 of the Appellant's Statement of Case, and as per Paragraph 8.31 of the Delegated Officer's Report, Policy 18 of the adopted Core Strategy is largely superseded by the PPTS and is considered to be out-of-date.
- 6.46 Notwithstanding this, Policy 18 of the adopted Core Strategy requires development proposals to provide a safe highway access, including provision for parking and servicing, and to ensure that schemes are capable of sympathetic assimilation into the surroundings. These requirements are consistent with Policies DM10 and DM17 of the SADMP, and therefore the NPPF, and due weight can be given to the criteria of this policy in accordance with Paragraph 225 of the NPPF.

Summary:

- 6.47 In conclusion, it is evident that the Appellant has reviewed the Policies within the Development Plan in isolation, rather than considering the Development Plan as a whole in conjunction with the material considerations, as is specifically required by both Local and National Planning Policy.
- 6.48 Given the above, all Development Plan Policies, with the exception of Policy 18 of the adopted Core Strategy, are considered to be consistent with the NPPF, and therefore due weight should be given to them in accordance with Paragraph 225 of the NPPF. Nevertheless, the requirements of Policy 18 of the adopted Core Strategy that secure a safe highway access for proposals and ensure that they are capable of sympathetic assimilation into the surroundings are compliant with Development Plan Policies and therefore are also consistent with the NPPF, and due weight should be given to these requirements in the determination of this appeal.

Comparative Planning Decisions and Appeals Decisions

- 6.49 Whilst the Appellant claims that the LPA are reliant on urban fringe locations to meet future housing needs, this is a speculative comment. In spite of this, this allegation does not lead to the conclusion that the provision of this appeal proposal in the countryside and within the Green Wedge is acceptable.
- 6.50 Crucially, all planning applications should be considered on their own site-specific material merits and considerations, and then determined in accordance with Local and National Planning Policy.

- 6.51 However, within their Statement of Case, the Appellant has made reference to other planning application decisions and planning appeal decisions to justify their appeal proposal and the Development Plan's lack of compliance with National Planning Policy.

23/00432/OUT: Land north of Normandy Way (A47) and east of Stoke Road, Hinckley:

- 6.52 For example, Paragraph 2.2 of the Written Statement of Case refers to a large housing development on the northern side of the A47 that was granted outline planning permission. Paragraph 2.4 of this Written Statement of Case confirms that this outline planning permission that was for the provision of up to 475 dwellings including public open space, drainage, landscaping, and associated infrastructure at the Land north of Normandy Way (A47) and east of Stoke Road, Hinckley via planning application 23/00432/OUT. The Appellant has provided the Committee Report for this planning application at Appendix 3 of the Written Statement of Case.

- 6.53 One of the key stark contrasts between this approved development and the appeal proposal is that the land north of Normandy Way and east of Stoke Road was not within the Green Wedge. This is a significant and material difference between the two schemes and therefore this planning permission is not considered to be comparable to this appeal.

- 6.54 Nevertheless, as clearly stated within Paragraph 8.50 of the Committee Report of the planning application 23/00432/OUT, which has been provided in Appendix 3 of the Appellant's Statement of Case:

"Together with the Council's lack of five-year housing land supply, and the clear benefits to the public from the delivery of 475 dwellings (20% of which is to be affordable), it is considered that the proposals would not have such a detrimental impact on landscape character or from a visual perspective to warrant refusal of the application."

- 6.55 It is therefore evident that the assessment of the impact of the development on the character of the countryside was determined in accordance with Paragraph 11(d) of the NPPF, and that the harm of the scheme did not significantly and demonstrably outweigh the substantial benefits of the large quantity of housing, affordable housing.

- 6.56 This contrasts with the current appeal proposal provides four gypsy and traveller residential pitches, and it does not provide any affordable housing provisions, public open space provision, nor any financial contributions or planning obligations.

- 6.57 In summary, the planning permission for 475 dwellings is significantly and materially different from the current appeal proposal and is considered to attract little weight as a material consideration within the determination of this appeal.

17/00531/OUT (APP/K2420/W/17/3188948): Land east of The Common, Barwell:

- 6.58 Interestingly, Paragraph 2.43 of the Appellant's Written Statement then suggests that the dismissal of the refused planning application 17/00531/OUT at appeal, APP/K2420/W/17/3188948, (c.f. Appendix A) for the provision of 185 dwellings at the Land east of The Common, Barwell, is, *"With respect...hardly comparable,"* to the appeal proposal. The appeal site of 17/00531/OUT was also within the Green Wedge and Character Area F of the LCA, which is the same Character Area as the appeal site. It is considered that this appeal decision is of far greater relevance to the current appeal than the approval of planning application 23/00432/OUT.
- 6.59 Firstly, it is noted that the Appellant has provided no justification as to why 17/00531/OUT is hardly comparable to the appeal proposal and simply asserts this to be the case; nor is it explained why planning permission for 23/00432/OUT is comparable to this current appeal proposal. Secondly, it is noted that 17/00531/OUT was highlighted by members of the public, and the LPA did not refer to this appeal decision within the assessment of the appeal proposal.
- 6.60 Nevertheless, the site within the dismissed appeal was adjacent to the current settlement boundary of Barwell alongside some commercial development and residential properties, which is similar to the current appeal site. The land east of The Common was also not considered to be a 'valued' landscape like the current appeal site.
- 6.61 Importantly, Paragraph 30 of this appeal decision states that Policy 6 of the adopted Core Strategy is consistent with the NPPF. A further key point is raised at Paragraph 34 of this appeal decision, where the Inspector states:
- "While this may represent only a small part of the wider Green Wedge, it is a substantial part of the Area C considered in the 2011 review. To suggest that the function of the Green Wedge is not affected because only a relatively small part would be lost is not a sufficient argument on its own and is one that if repeated would lead to substantial erosion of that function."*
- 6.62 In comparison to this, it is noted that the current appeal site is located within Area F of the GWR, which is one of the narrowest elements of the Green Wedge. Although the Appellant consistently refers to the, *"Small-scale development,"* of the proposal, the Appellant fails to acknowledge that the loss of a relatively small part of the wider Green Wedge is not sufficient justification for their appeal proposal.
- 6.63 Accordingly, the Inspector confirms at Paragraph 87 of this appeal decision that:
- "The Policies which I have found specific conflict, Core Strategy Policy 6 and SADMP Policy DM4, remain consistent with the Framework and I accord them significant weight."*
- 6.64 In summary, the appeal decision of 17/00531/OUT was determined in accordance with Paragraph 11(d) of the NPPF. Significant weight was provided to the delivery of 185 houses and 37 affordable homes, alongside moderate weight to the

economic benefits of the development and to the enhanced biodiversity within the site. It is noted that none of these factors are benefits of the current appeal proposal. The LPA has carefully weighed the benefits of the current appeal proposal and the harms that it would cause and has appropriately concluded that the benefits are significantly and demonstrably outweighed by the adverse impacts of the scheme.

- 6.65 Whilst the Inspector concluded that the harm to the character of the site was offered moderate weight due to its relatively contained nature, the Inspector identified that the proposal resulted in substantial harm to the character and appearance of the countryside, the setting of the town, and the function of the Green Wedge by significantly eroding the coalescence, visual appearance, and the green lung element afforded by the site. This substantial harm was considered to significantly, and demonstrably, outweigh the benefits of the scheme.
- 6.66 In conclusion, although the appeal development of 17/00531/OUT was bigger than the current proposal, this also meant that the benefits of the scheme were also larger. However, these benefits were still insufficient and were significantly outweighed by the harm caused by the development within the Green Wedge. In comparison, the current appeal proposal only provides benefits through the provision of additional gypsy and traveller residential pitches, which the LPA has afforded significant weight in the planning balance. Ultimately, and similarly to the appeal decision of 17/00531/OUT, the substantial harm of the development to the character of the site, to the surrounding area, to Character Area F of the Borough, to the Green Wedge, and to the open countryside is considered to significantly and demonstrably outweigh the benefits of the development in these site-specific circumstances.

15/01089/COU: Land adjacent to Dalebrook Farm, Leicester Road, Earl Shilton:

- 6.67 The Appellant has also referred to the approval of a change of use from an agricultural site to a ten-pitch gypsy and traveller caravan site at land adjacent to Dalebrook Farm, Leicester Road, Earl Shilton via planning application 15/01089/COU, which has been submitted at Appendix 5 of the Appellant's Statement of Case.
- 6.68 Whilst the Appellant has ardently emphasised that the development at Dalebrook Farm cannot be relied upon to meet the identified need for gypsy and traveller accommodation within the Borough, this has never been the LPA's position. On the contrary, the LPA confirmed at Paragraph 8.36, and again at Paragraph 8.105, of the Delegated Officer's Report that significant weight should be given to the benefit of additional gypsy and traveller accommodation in the Borough, regardless of the provision approved at Dalebrook Farm.
- 6.69 Importantly, it is noted that this development was also not within the Green Wedge, and therefore the decision is of limited relevance to the appeal proposal due to the significant material differences between the two sites.

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- 6.70 The LPA also highlights that the site in the Dalebrook Farm case was smaller than the current appeal site at 0.6ha in size and benefitted from an existing access onto Leicester Road. Therefore, by virtue of the size of the site alone and its minimum separation distance of approximately 30m from the public highway, the impact of the approved development was significantly and materially different to that of the current appeal proposal.
- 6.71 The LPA also highlights that, despite being located within a smaller site, the developments at the Dalebrook Farm site, via planning applications 13/00395/COU and 15/01089/COU, provided a total of 20 gypsy and traveller residential pitches, which is five-times more than is sought within the current appeal proposal.
- 6.72 In spite of this, the Case Officer of 15/01089/COU still clearly highlighted that the development was likely to result in a, “*Utilitarian urbanising impact*,” to the character of the area, which would have resulted in harm to the countryside.
- 6.73 In light of the above, the Case Officer at the time appropriately considered that, on balance, the benefits of providing ten gypsy and traveller residential pitches within a permitted gypsy and traveller residential site outweighed the harm of the development in those site-specific circumstances. The approved planning application is therefore considered to benefit from a vastly different set of circumstances to the undeveloped land that is within the identified Green Wedge.

18/01051/FUL (APP/K2420/W/19/3222720): Land east of the Enterprise Centre, Dawson’s Lane, Barwell:

- 6.74 At Paragraph 2.44 of the Appellant’s Statement of Case, the Appellant accuses the LPA of failing to provide details of the planning application 18/01051/FUL at land east of the Enterprise Centre, Dawson’s Lane, Barwell (c.f. Appendix B). In spite of this assertion, the Appellant then stated that 18/01051/FUL has little relevance to the appeal proposal. The LPA are therefore uncertain on the reasoning for this comment within the Appellant’s Statement of Case.
- 6.75 This planning application was acknowledged by the LPA at Paragraph 5.8 of the Delegated Officer’s Report as the scheme was highlighted by members of the public and acknowledged by the LPA.
- 6.76 Planning application 18/01051/FUL was for the provision of two shipping containers in a paddock for the secure storage of tools and machinery used for the maintenance of the paddock and dry storage of animal feed.
- 6.77 Nevertheless, whilst the LPA did not need to rely on this appeal decision within its assessment of this proposal, the LPA considers that the appeal decision of 18/01051/FUL (APP/K2420/W/19/3222720) is a material consideration that offers weight to the conclusion that the current development results in harm to character and appearance of the area, the Green Wedge, and the open countryside.

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- 6.78 The site at the land east of the Enterprise Centre, Dawson's Lane, Barwell was described as a largely undeveloped area of land that was 5,130sqm in size. Whilst the site was adjacent to the settlement boundary of Barwell and to a car park/ hard surfaced area, the Inspector stated that the site, *"Marks a clear break from a more built-up area to the open countryside."* Furthermore, whilst there was existing hedgerow between the site and the public highway, the Inspector still concluded that intermittent views of the containers were available from Dawson's Lane through gaps in the hedgerow or sparse hedgerow, which supported their visual prominence in the landscape.
- 6.79 Therefore, whilst this site was approximately 1ha smaller than the current appeal site, the sites are in a similar setting by being adjacent to an identified settlement boundary as well as to developed areas of land. Crucially, both appeals mark a clear break from a more built-up area to the open countryside. In addition, whilst the Dawson's Lane appeal site benefited from mature hedgerow along its shared boundary with the public highway, like the land south of Normandy Way does, the Inspector still identified intermittent views of the site.
- 6.80 It is also noted that the containers within this appeal decision were described as, *"Functional and utilitarian in appearance,"* which is similar to how the development of gypsy and traveller residential pitches was described within planning applications 13/00395/COU and 15/01089/COU.
- 6.81 Moreover, this appeal decision highlights that the scheme featured a 614.8sqm area of gravel that was laid from the existing stable complex across to the area where the containers were sited. In Paragraph 17 of this appeal decision, the Inspector confirmed that:
- "This is a significant area, and it would introduce a large area of gravel surface, which would detract from what is generally a little developed area of land. The use of gravel for what is a significant area across the gap between the stable complex and the containers on the higher part of the site would be prominent and detract from the existing character and appearance of the land and detract from the countryside setting."*
- 6.82 Based on the Proposed Block Plan 010 Rev C (submitted: 30.01.2024), the current appeal scheme proposes 4,388.2sqm of permeable block paved surfacing. Therefore, the current appeal proposal features over seven-times the amount of hard surfacing than the dismissed appeal scheme where the Inspector found that the vastly smaller area of hard surfacing would be prominent and detract from the character and appearance of the site and detract from the sites countryside setting. Therefore, the large area of hard surfacing in the case of the current appeal clearly results in significant harm to the character of the area and to the countryside setting of the site.

6.83 Finally, Paragraph 18 of this appeal decision concludes that:

“The containers are sited away from the existing structures on the site and extend into an area that would otherwise have been open and unbuilt on. They fail to assimilate with the existing stable buildings or the locality in which they are sited.”

6.84 To summarise, the appeal regarding planning application 18/01051/FUL was dismissed because the containers and the hard surfacing caused harm to the character and appearance of the area, the Green Wedge, and the open countryside. The site was smaller in size than the appeal site, but it was within the Green Wedge, adjacent to the built form within a settlement boundary, and in the open countryside. The dismissed appeal scheme also featured development that was utilitarian in character like the current appeal but utilised significantly less hard surfacing than the current appeal proposal.

6.85 By virtue of these factors, it is clear that this appeal decision is relevant in the determination of this planning appeal, and it is a material consideration that provides further weight and support to the LPA's conclusions that the current proposal results in significant harm to the character of the surrounding area, the Green Wedge, and the countryside, contrary to, and conflict with, Policies DM4 and DM10 of the SADMP, as well as Policies 6 and 20 of the adopted Core Strategy.

16/00113/COU (APP/K2420/W/16/3157918): Land south of Leicester Road, Hinckley:

6.86 The final development that the Appellant has referred to is the dismissed appeal decision (APP/K2420/W/16/3157918) of planning application 16/00113/COU at land south of Leicester Road, Hinckley, which has been submitted within Appendix 6 of the Appellant's Statement of Case. This dismissed appeal proposal was for the provision of three caravans, including no more than two static caravans with hard standings and two amenity buildings. For clarity, the LPA did not refer to, nor rely on, this appeal decision within the assessment of the current appeal proposal.

6.87 The LPA do not disagree that the Leicester Road site is further into the open countryside than the current appeal site. However, the dismissed appeal site is predominantly open and undeveloped and relatively enclosed by hedgerows, particularly on its shared boundary with the public highway, like the current appeal site.

6.88 Paragraph 16 of this appeal decision emphasises that Policy 20 of the adopted Core Strategy identifies that the Green Wedge must be retained for its important environmental and landscape protection role. It is important to highlight that this statement was not refuted by the Inspector. A further important statement within this appeal decision is that:

“Whilst [the appeal site is] undistinguished in itself, the site forms an integral part of a predominantly open rural landscape.”

- 6.89 The most pivotal comment within this appeal decision is at Paragraph 28 where the Inspector states:

“The National Planning Policy Framework (the Framework) requires that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes. Although the appeal site itself enjoys no such specific recognition in relation to any intrinsic landscape quality beyond its contribution to the Green Wedge, for the reasons indicated, it still makes an important contribution to the distinctive countryside character and appearance of the setting, and as further acknowledged by the representation of local interested parties. Not only would that contribution be lost to the proposed use, but the impact would also undermine similar attractive qualities of its wider surroundings.”

- 6.90 Paragraph 29 of this appeal decision then continues to state:

“The natural beauty of the open countryside is there to be generally appreciated, and this is conferred upon pedestrians and other passers-by through such viewing opportunities as currently available from the road.”

- 6.91 Whilst the Appellant suggests that the LPA fails to define what the intrinsic value of the current appeal site is, the Appellant relies on this appeal decision and specifically Paragraph 29 of this appeal decision within their rebuttal of the LPA's decision to refuse planning application 24/00016/FUL at Paragraph 2.42 of their Statement of Case. Although the appeal decision on 16/0113/COU is assessing a different site, the Inspector clearly highlights the importance of the Green Wedge within the Borough, and how the appeal site, whilst not a 'valued' landscape, contributes to, and is an integral part of, the Green Wedge and the character of the surrounding area.

Conclusion:

- 6.92 To conclude, the LPA did not rely on any comparative planning applications, nor planning appeals to determine planning application 24/00016/FUL. This is because whilst there is of course a need for all local planning authorities to be consistent in their decision making, it is unusual for officer reports to refer to other application sites beyond those that relate to the site itself. For clarity, this planning application, like all planning applications, was considered on its own site-specific material merits and considerations, and then determined in accordance with Local and National Planning Policy.
- 6.93 Whilst the LPA have not relied upon the planning applications nor the planning appeals that the Appellant has drawn further attention to, these decisions emphasise the importance of the Green Wedge, and the significant weight that Policy 6 of the adopted Core Strategy attracts in the planning balance.

- 6.94 Ultimately, it is considered that the relevant conclusions that can be drawn from these comparative planning application and planning appeal decisions are that the significant adverse impacts of these proposals on the character of the Green Wedge and the intrinsic value, beauty, open character, and landscape character of the countryside sufficiently outweighed the benefits and positive contributions that were likely to flow from the proposed developments. Therefore, these appeal decisions are considered to be material considerations in the determination of this appeal proposal and provide further weight and support to the LPA's conclusions that the current appeal scheme results in significant harm to the character of the surrounding area and to the Green Wedge.

The Appellant's Discussion of the Reasons for Refusal

Character and Use of the Appeal Site:

- 6.95 Contrary to the assertions within Paragraph 4.2 of the Appellant's Statement of Case, the PPTS is not supportive of gypsy and traveller sites on the edge of settlements. For clarity, the aims of the PPTS, as detailed at Paragraph 4(h) of the PPTS, are supportive of sites in, "*Appropriate locations*," to address provision and maintain an appropriate level of supply. As per Paragraph 8.95 of the Delegated Officer's Report, although the PPTS does not preclude development in the countryside, the document does not state in writing that National Planning Policy is supportive of development in the countryside.
- 6.96 On the contrary, Paragraph 25 of the PPTS states that local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements. Therefore, whilst the Appellant may take issue with the statement that the countryside is not regarded as a sustainable location for new development, this is not inconsistent with National Planning Policy, and the Appellant has not provided any suitable justification to demonstrate why this is contrary to the advice within the PPTS.
- 6.97 Importantly, Paragraph 123 of the NPPF states that planning 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."*
- 6.98 This demonstrates that land does not have to be developed to ensure that is promoting an effective use such as safeguarding and improving the environment.
- 6.99 Contrary to the suggestions of the Appellant at Paragraph 2.36 of their Statement of Case, both Paragraphs 3.2 and 8.49 of the Delegated Officer's Report clearly state that the rural character and the undeveloped landscape character of the Green Wedge within the appeal site are a key sensitivity of the character of the site and the wider Landscape Character Area.

- 6.100 As confirmed by the GWR, the area that the appeal site is located in is agricultural in nature. As per Paragraph 26 of the PPTS, the site has not been previously developed, and it is not untidy or derelict land, and therefore no weight can be attached to Paragraph 26(a) of the PPTS.
- 6.101 Whilst the Appellant attempts to argue that the appeal site is not in agricultural use, this does not detract from the undeveloped and rural character of the appeal site.
- 6.102 Importantly, although the appeal site is influenced by the urban fringe of Hinckley, this suburban character of neighbouring residential development in Hinckley is not the principal character of this area of undeveloped paddock land. On the contrary, the appeal site marks a clear break from a more built-up area to the countryside.
- 6.103 Given the above, and the Appellant's refusal to acknowledge the character of the appeal site, the Appellant has failed to appropriately address the fact that the residential use of the appeal site would fundamentally and detrimentally alter its use and character. This harm would be furthered by the provision of caravans and day rooms as well as the provision of a large area of hard surfacing that would detract from the undeveloped character of the appeal site. No justification has been provided by the Appellant to demonstrate how this identified harm does not conflict with the Green Wedge's important role in protecting the environment and the landscape character of the area.
- 6.104 The only justification that the Appellant has relied upon in support of their assessment of its impact on the character of the area and on the Green Wedge is that the site is, "*Relatively small*," and, "*Self-contained*," at Paragraphs 2.11, 2.12, 2.27, and 5.2 of their Statement of Case.
- 6.105 As per the Inspector's conclusions in the dismissed appeal decision of 17/00531/OUT, the scale of the development is not a sufficient argument on its own to justify harm to the Green Wedge and is one that if repeated would lead to further substantial erosion of the Green Wedge. The importance of this statement is heightened in these site-specific circumstances given that the appeal site is at the narrowest part of the Green Wedge, which is identified as being sensitive to change.
- 6.106 Furthermore, as highlighted previously within this Statement of Case, whilst the appeal site is not considered to be a 'valuable' landscape, it is an integral part the Green Wedge, which has an important role in the protection of the environmental and landscape character of the Borough. Given the Appellant's disregard for the role and importance of the Green Wedge, they have failed to appropriately engage with Local and National Planning Policy within their consideration of this appeal proposal.
- 6.107 In light of these failures, the Appellant's claim that the proposal results in, "*Minimal harm*," is unfounded and not based on any appropriate assessment of the development against Local and National Planning Policy, nor any material

considerations including the assessment of the Delegated Officer's Report, nor the planning application decisions and planning appeal decisions that the Appellant has relied upon within their Statement of Case.

Planting and Landscaping:

6.108 Instead, the Appellant has relied on the, *"Additional screening,"* that the appeal proposal provides through landscaping to address the concerns of the LPA.

6.109 Paragraph 8.40 of the Delegated Officer's Report states that:

"Whilst deciduous planting is proposed around the site, the details of this planting are not confirmed, and no soft landscaping has been proposed within the application site."

6.110 For clarity, this Paragraph of the Delegated Officer's Report noted that no soft landscaping has been proposed around the four pitches within the site, but it did also acknowledge there is additional deciduous planting proposed around the perimeter of the site. It is clear that this planting was taken into consideration by the LPA within their assessment of the proposal because the Officer's Report's references the, *"Deciduous planting,"* which is clearly annotated within the submitted Proposed Block Plan 010 Rev C (submitted: 30.01.2024). Nevertheless, the Appellant does not contest that planting is not provided within the main use of the development. In spite of this, as per Paragraph 8.40 of the Delegated Officer's Report, *"Details regarding landscaping can be secured via condition."*

6.111 The LPA also note that Paragraph 8.42 of the Delegated Officer's Report states:

"The site itself is entirely enclosed by 1.8m high close-boarded timber fencing."

6.112 For further clarity, this Paragraph acknowledges that the entire developed area of the site beyond the proposed deciduous planting along the perimeter of the site is entirely enclosed by 1.8m high close-boarded timber fencing. This timber fencing is highlighted within the Proposed Block Plan 010 Rev C (submitted: 30.01.2024). Notwithstanding this, it is noted that Paragraph 8.42 of the Delegated Officer's Report does not suggest that this boundary causes harm in these site-specific circumstances.

6.113 At Paragraph 2.39 of the Appellant's Statement of case, they have suggested that they fail to understand how additional planting does not greatly enhance the screening of the appeal site. In spite of this, the Appellant has failed to provide any justification to support their position in light of the LPA's concerns, which were detailed at Paragraph 8.52 of the Delegated Officer's Report.

6.114 For emphasis, Paragraph 8.52 of the Delegated Officer's Report states:

"Despite the fact that existing vegetation diminishes views into the site, this vegetation is deciduous, and therefore the scheme's visual prominence is likely to

increase in winter months. Furthermore, whilst the additional deciduous tree planting is beneficial in reducing the visual impact of the scheme, new planting cannot be relied upon to provide permanent or substantial buffers to views. This is because planting initially takes time to become properly established, it is susceptible to disease, and it is ever evolving, and reliant on regular maintenance to retain a consistent form.”

6.115 In addition to this, the LPA highlights that one does not require planning permission to remove landscaping and planting.

6.116 Notwithstanding the provision of appropriate landscaping, the Appellant has failed to respond to the LPA’s concerns that are detailed at Paragraph 8.53 of the Delegated Officer’s Report. Paragraph 8.53 states:

“Whilst the significant harm of the development is not prominent from public views, this does not suggest that significant localised harm has not occurred to the character of the application site, the Green Wedge, and the countryside.”

6.117 As highlighted previously, the appeal site does not need to be seen to be an effective use of land in safeguarding the character of the countryside and performing its important environmental and landscape character role as part of the Green Wedge. Equally, the appeal proposal does not need to be visually prominent for it to result in significant and detrimental adverse impacts to the effective use of this land and its contribution to the environmental and landscape character of the area.

6.118 To summarise, additional landscaping and screening is insufficient to mitigate the adverse impacts of the development to the character of the site, the surrounding area, Character Area F of the LCA, the Green Wedge, nor the wider countryside.

The Appellant’s Assessment of Local and National Planning Policy:

6.119 Whilst the Appellant has suggested that they have attempted to argue that the appeal proposal is capable of complying with Local and National Planning Policy, and that certain policies are either not relevant or should carry limited weight, the Appellant has failed to achieve either of these ambitions.

6.120 Importantly, the Appellant has not attempted to highlight how policies within the Development Plan are inconsistent with National Policy.

6.121 Furthermore, the Appellant has failed to read the Development Plan, nor the Framework as a whole, which is a fundamental requirement of Local and National Planning Policy. This has led the Appellant to erroneously criticising policies within the Development Plan for not explicitly referring to gypsy and travellers. This criticism is in spite of the fact that the Appellant has acknowledged that the lists of acceptable land uses in the countryside and the Green Wedge within Policy DM4 of the SADMP, and Policy 6 of the adopted Core Strategy respectively are not exhaustive.

6.122 For clarity, the LPA have made no attempt to deny that there are further examples of acceptable development beyond settlement boundaries, but each of these examples would be subject to the consideration and assessment of all other material considerations in each of their site-specific circumstances.

6.123 In light of the above, the LPA is of the view that the appeal proposal is not compliant with Local and National Planning, and that Policies 6 and 20 of the adopted Core Strategy as well as Policies DM4 and DM10 of the SADMP are consistent with the NPPF and therefore attract significant weight in the planning balance. Ultimately, it is considered that the appeal proposals conflict with these policies significantly and demonstrably outweigh the benefits of the development.

Other Material Considerations

Temporary Planning Permission:

6.124 Paragraph 27 of the PPTS states that the lack of an up-to-date five-year supply of delivery gypsy and traveller sites should be a significant material consideration when considering applications for the grant of temporary planning permission.

6.125 Despite the Appellant's assertions at Paragraph 2.35 of their Statement of Case, the Appellant hasn't made any indication throughout the determination of both planning applications 23/00655/FUL and 24/00016/FUL that the temporary use of the site would provide a suitable solution to their requirements, nor that this is a solution that they would be acceptable to them.

6.126 Moreover, the Appellant has not provided sufficient justification to demonstrate that the requirement of a planning permission with a temporary planning condition would be necessary, nor outweigh the harm of the development in these site-specific circumstances.

6.127 Ultimately, the LPA does not consider that the use of a planning condition to secure the temporary use of the appeal site for residential pitches makes the appeal proposal acceptable. This is because the appeal proposal is within the Green Wedge, and even a temporary planning permission would reduce the size of the Green Wedge at one of its narrowest points where it is most sensitive to change. Therefore, in accordance with Paragraph 55 of the NPPF, it is considered that a temporary planning condition would not be suitable because the scheme would still result in harm to the important environmental and landscape role of the Green Wedge. As a result, it is not considered that the benefits are the scheme are likely to significantly and demonstrably outweigh this substantial adverse impact.

Supply of Gypsy and Traveller Accommodation in the Borough:

6.128 For the avoidance of doubt, in accordance with Footnote 41 of the NPPF, a five-year supply of deliverable sites for travellers, as defined in Annex 1 to the PPTS, should be assessed separately in line with the policy in that document.

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- 6.129 Therefore, the discussion of the appeal proposal's limited weight to the supply of housing land in Paragraph 8.36 of the Delegated Officer's Report was an error and is not applicable to this development.
- 6.130 However, as previously stated within this Statement, and within the Delegated Officer's Report, the LPA do not dispute that the targets within Policy 18 of the adopted Core Strategy and the identified need for further gypsy and traveller accommodation within the Borough are out-of-date.
- 6.131 It is also acknowledged that limited gypsy and traveller accommodation has been granted in the Borough since this time. Since the publication of the Council's Gypsy and Traveller Accommodation Assessment (GTAA) in November 2016, 14 gypsy and traveller residential pitches have received planning permission via the following applications:
- Four pitches at Spring Acre, Lychgate Lane, Burbage (19/01327/FUL)
 - Two pitches at The Bungalow, Watling Street, Hinckley (19/01375/FUL).
 - Two pitches at Rogues Lane, Hinckley (20/01245/CONDIT)
 - Six pitches at Rogues Lane, Hinckley (23/00499/CONDIT)
- 6.132 Leicestershire County Council's Multi-Agency Traveller Unit (MATU) have also confirmed in writing (c.f. Appendix C) that there quite a few available residential pitches at the established gypsy and traveller site at Rosevale Site at Aston Firs in the Blaby District. In addition, further vacancies are available as of 4 June 2024 for the new 'Whitegates' site, which is part of the Aston Firs site (c.f. Appendix D). This site is due to open in September 2024, but no further details of this site have been confirmed by MATU.
- 6.133 Nevertheless, the social benefits of providing additional gypsy and traveller residential accommodation are considered to attract significant weight in the planning balance.
- 6.134 Although the Appellant has referred to the Regulation 19 Local Plan (2022) and Policy HO07 of this Local Plan, as set out in the recently revised Local Development Scheme (LDS) (2024), the Council are no longer progressing this plan as they accept the need to address unmet housing needs from Leicester City Council. It is expected that a new 'Regulation 19' Plan will be consulted on early next year and that adoption will be in 2026. As such, it is considered that no weight can be given to the emerging Local Plan in this appeal decision.
- 6.135 The LPA acknowledges and is willing to accommodate the needs of the potential families that are to occupy the appeal proposal. However, in accordance with Paragraph 4(h) of the PPTS, the LPA are required to do this in, "*Appropriate locations.*" It is not considered that land within the Green Wedge is an appropriate location for this appeal proposal.
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The Personal Circumstances of the Appellant

6.136 The Appellant has suggested in Paragraph 4.14 of their Statement of Case that the LPA has failed to appropriately consider the current living accommodation of the Appellant and its impact on their health and educational needs.

6.137 Paragraph 8.35 of the Delegated Officer's Report states:

"Whilst there are advantages to the Applicant and the families identified within the Planning Statement moving into the application site, all identified families currently have alternative accommodation that is not considered to be intrinsically unsatisfactory."

6.138 The LPA utilised the phrase, *"Intrinsically unsatisfactory,"* within their Delegated Officer's Report to align with the judgement of the Inspector within the dismissed appeal decision of 11/00377/FUL (APP/K2420/A/11/2161662) at the land adjacent to Hissar House Farm, Leicester Road, Hinckley (c.f. Appendix E). Paragraph 18 of this appeal decision states:

"Whilst there would be advantages to the appellant and his wife moving to the appeal site, I am not persuaded that their current accommodation is intrinsically unsatisfactory, and I have no information on the present circumstances of Mr. and Mrs. Lee and their family. I do not consider that there is evidence that the human rights of either family would be adversely affected. Personal circumstances therefore add little weight in support of this proposal."

6.139 The personal circumstances of the Appellants in that case were detailed at Paragraph 14 of the appeal decision:

"Both families were displaced from a site that closed about three years ago at Ratby about 20 kilometres away. Since then, Mr. and Mrs. Price have occupied a pitch on an established site at Market Harborough, which is about 45 kilometres away, although they do not own the site and there is no certainty that it will continue to be available in the longer time. It is stated that Mr. and Mrs. Lee have no permanent base and that over the last three years they have had temporary stops on pitches belonging to other travellers while they were away or on waste ground."

6.140 Therefore, the Inspector concluded within this appeal decision that the occupation of transit residential pitches within an established gypsy and traveller sites for over three years was not intrinsically unsatisfactory and did not adversely affect their human right of the Appellants. This is a significant material consideration in the assessment of this appeal proposal in accordance with Paragraph 24(c) of the PPTS.

6.141 In comparison to this previous appeal decision, it is noted that no information was provided regarding the existing living accommodation nor the personal circumstances of the Appellant within the original planning application, 23/00655/FUL, of this appeal proposal.

6.142 Within the refused planning application 24/00016/FUL, of this appeal proposal the Appellants stated that:

- Mr. Mulvenna and his family have lived on a, “*Very cramped site*,” in an established gypsy and traveller site in Northamptonshire, Justin Park, since 2004.
- Mr. Winter and his family have lived on a transit pitch within an established gypsy and traveller site, Winter Oak, which is owned by one of Mr. Winter’s cousins for the last 2 years.
 - One of Mr. Winter’s cousins also owns the established gypsy and traveller site at Hyde Lane in Hinckley.
 - Mr. Winter’s parents have lived at an established gypsy and traveller site, The Pasture, in Desborough for the last 12 years.
- Mr. Sykes (Snr) and his wife have lived in a house on the A5 for 17 years, which they utilise as a base during the winter months.
 - Mr. Sykes’ intends to share his proposed plot within the appeal site with his son and his family, who have recently returned to Leicestershire and are currently living on a transit pitch at the established gypsy and traveller site, The Bungalow, on the A5.
 - Mr. Sykes (Snr)’s other son, Mr. Sykes, and his family have rented the property next to Mr. Sykes (Snr) on the A5 and have lived in a touring caravan behind the property for approximately seven years.

6.143 To justify their development, Paragraph 4.24 of the Appellant’s Statement of Case highlights that the households of Mr. Winter and Mr. Sykes (Snr)’s son, currently occupy transit pitches at Winter Oak and The Bungalow respectively, which the Appellant has described as, “*Unauthorised and inappropriate*.”

6.144 Following discussion with Leicestershire County Council’s Multi-Agency Traveller Unit (MATU) (c.f. Appendix C), MATU confirmed that all plots at Justin Park featured, “*Separate amenity buildings or day rooms*.” This assessment of the established site is reinforced by a satellite image of the Justin Park gypsy and traveller site from 2021 (c.f. Appendix F). It is evident from this satellite imagery that all the pitches within this established site can accommodate more than one 16ft caravan. For example, every pitch within this site features a day room, and several caravans.

6.145 Moreover, MATU noted that there was, “*No time limit for people to stay*,” for the transit pitches at the established gypsy and traveller site, Winter Oak, and that the facilities on the site were, “*Very basic*,” (c.f. Appendix C). In addition, MATU confirmed that there are shared facilities at the established gypsy and traveller site, The Bungalow, but it was likely that the site would feature, “*Individual bathroom facilities*,” (c.f. Appendix C).

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- 6.146 The LPA notes that MATU did not raise any concerns regarding the quality of the accommodation within these established sites within their response. Whilst MATU did raise concerns regarding the amenities within these sites, these are not issues that have been raised by the Appellant at any stage during the determination of planning applications 23/00655/FUL and 24/00016/FUL, or this appeal process.
- 6.147 Nevertheless, it is acknowledged that occupying transit residential pitches is not likely to be the ideal circumstance for the appellant and their associated families, and weight should be attached to the benefits in addressing these circumstances. However, in light of the dismissed appeal decision of 11/00377/FUL and the response from MATU, the benefits of this permanent accommodation are not considered significantly and demonstrably outweigh the substantial harm of the development to the character of the site, the surrounding area, the Green Wedge, and the countryside in these site-specific circumstances.
- 6.148 To justify the inappropriate nature of the families' existing accommodation, the Appellant has also highlighted at Paragraph 4.22 of their Statement of Case that:
- "For many Gypsy Travellers, bricks and mortar is not an acceptable or appropriate alternative accommodation option."*
- 6.149 Whilst this is not disputed by the LPA, this is a generalisation that is not applicable to this appeal proposal. The discussion of the preferences of gypsies and travellers in Paragraph 4.15 of the Appellant's Statement of Case is also considered to be a generalisation that is not applicable, nor relevant, to this appeal proposal and should be offered little weight in the determination of the appeal.
- 6.150 In considering Paragraph 24(b) and (c) of the PPTS, the LPA acknowledges that living in conventional dwellinghouses is likely to cause cultural harm to the appellant and their associated families, and this harm should be appropriately weighted in the planning balance.
- 6.151 In light of the above, Paragraph 19 of dismissed planning appeal 11/00337/FUL goes on to state that,
- "Since I have attached little weight to the personal circumstances of the appellant, allowing the proposal would set a precedent for other gypsy and traveller caravan site development on land owned by the appellant and elsewhere along the roadside. The cumulative effect of this would be to further seriously undermine the openness and visual amenity of the Green Wedge. It adds to the site specific harm I have found in relation to the proposal."*
- 6.152 Ultimately, although the LPA are supportive of the provision of additional gypsy and traveller sites within the Borough, these must be in appropriate locations as confirmed by the PPTS. Whilst the LPA appreciates the aspirations of the Appellant and their associated families, and the existing social harm that living in conventional residential dwellings has upon them, it is not considered that the appeal site within the Green Wedge is an appropriate location for any form of residential
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development, nor that the personal circumstances of the Appellant and their associated families significantly and demonstrably outweighs the substantial harm caused by the proposal.

7. PLANNING BALANCE AND CONCLUSION

- 7.1 To summarise, Section 38 (6) of the Planning and Compensation Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 indicates that planning permission should be granted for development proposals that accord with the Development Plan unless material considerations indicate otherwise. This is reinforced by Paragraph 2 of the National Planning Policy Framework and Policy H of the Planning Policy for Traveller Sites.
- 7.2 Whilst it is acknowledged that the Development Plan was adopted prior to the publication of the latest NPPF, as a result of the strong consistency with the wording of the NPPF, due weight should be given to the policies within the Development Plan, such as Policies DM4, DM10, and DM17 of the SADMP, and Policies 6 and 20 of the adopted Core Strategy in accordance with Paragraph 225 of the NPPF.
- 7.3 However, Policy 18 of the adopted Core Strategy is largely superseded by the PPTS and is considered to be out-of-date. Notwithstanding this, it is considered that Policy 18 of the adopted Core Strategy's requirements to ensure a safe highway access, including provision for parking and servicing, and to ensure that the development is capable of sympathetic assimilation into the surroundings are consistent with Policies DM10 and DM17 of the SADMP and the NPPF, and therefore due weight can be given to the criteria of this policy in accordance with Paragraph 225 of the NPPF.
- 7.4 Nevertheless, as Paragraph 11(d) of the NPPF has been triggered, planning permission should be granted to development unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF taken as a whole.
- 7.5 When considering Paragraph 27 of the PPTS, the Local Planning Authority cannot demonstrate an up-to-date five-year supply of deliverable sites for gypsies and travellers. In light of this, it is acknowledged that there is an unmet need for gypsy and traveller sites in the Borough. Therefore, in accordance with Paragraph 24(a) of the PPTS, the benefit of providing gypsy and traveller pitches in the Borough attracts significant weight in the planning balance.
- 7.6 When considering Paragraph 24(b) of the PPTS, MATU have confirmed that there is availability for accommodation at an established gypsy and traveller site in the Blaby District, and a further site is due to open with availability in September 2024.
- 7.7 In considering Paragraph 24(b) and (c) of the PPTS, the LPA acknowledges that living in conventional dwellinghouses is likely to cause cultural harm to the appellant and their associated families.

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- 7.8 In addition, it is acknowledged that occupying transit residential pitches is not likely to be the ideal circumstance for the appellant and their associated families, and weight should be attached to the benefits in addressing these circumstances.
- 7.9 However, the benefits of providing permanent accommodation within this appeal site are considered to be significantly and demonstrably outweighed by the substantial harm that would result from the development on the character of the site and surrounding area, on the Green Wedge, and on the intrinsic value, beauty, open character and landscape character of the countryside.
- 7.10 In assessing the personal circumstances of the Appellant and their associated family, the LPA have not determined the appeal proposal based on the connection of the Appellant to the area in accordance with Paragraph 24(e) of the PPTS.
- 7.11 Furthermore, the LPA have utilised to the locally specific criteria within its Development Plan which form the policy that is used to assess applications that come forward on unallocated sites in accordance with Paragraph 24(d) of the PPTS.
- 7.12 The LPA strongly refute the Appellant's claim at Paragraph 4.27 of their Statement of Case that, *"Any adverse impacts arising from the proposal carry limited or moderate weight."* This statement is unfounded and unjustified, and it fails to appropriately appreciate the potential detrimental impacts of the appeal proposal.
- 7.13 As demonstrated within this Statement of Case, the Appellant has failed to read and analyse the Development Plan, or the Framework, as a whole and as a result has misguided themselves in their assessment of this appeal proposal. This can be seen by the fact that, despite referring to several planning appeal decisions that demonstrate the importance of the Green Wedge within the Borough, the Appellant has continued to erroneously undervalue the role and function of the Green Wedge in Local and National Planning Policy and as a result in their assessment of the adverse impacts of the development. This can also be seen by the Appellant's inability to demonstrate that the Development Plan Policies are inconsistent with the NPPF, and their failure to respond to the LPA's concerns in relation deciduous landscaping and planting.
- 7.14 To summarise, significant weight is given to the provision of additional gypsy and traveller residential pitches in the Borough. However, the development would result in significant and permanent adverse impacts to the undeveloped and rural character of the site, the Burbage Common Rolling Farmland Character Area, the Hinckley/ Barwell/ Earl Shilton/ Burbage Green Wedge, and the intrinsic value, beauty, open character, and landscape character of the countryside. As a result, the development also fails to protect the important role and function of the designated Green Wedge. In these site-specific circumstances, this is considered to significantly and demonstrably outweigh the benefits of the scheme.
- 7.15 As a consequence of all these factors, the scheme does not comply, and is in contrary to, the requirements of Policies DM4, and DM10 of the SADMP, Policies 6,
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18, and 20 of the adopted Core Strategy, and Sections 12 and 15 of, as well as the overarching principles of, the NPPF. In accordance with Paragraph 11(d) of the NPPF, it is requested that the appeal is dismissed.

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

8. CONDITIONS

- 8.1 The planning conditions and reasons proposed by the Local Planning Authority and agreed by the Appellant and the Local Highway Authority, are provided within a separate document.