

STATEMENT OF COMMON GROUND

Land at Crabtree Farm, Hinckley Road, Barwell, Leicestershire

- Appeal Ref: 6002755 – LPA Ref: **23/01184/FUL (Application A – North East Parcel): Residential development of 16 dwellinghouses with associated garages, driveway, open space, landscaping, drainage and LEAP**
- Appeal Ref: 6002756 - LPA Ref: **23/01175/FUL (Application B – Eastern Parcel): Residential development of 51 dwellings with associated access and parking (revised scheme of 21/00695/FUL)**
- Appeal Ref: 6002757 - LPA Ref: **23/01186/FUL (Application C – North West Parcel): Residential development of 14 dwellinghouses with associated garages, driveway, open space, landscaping, drainage and LEAP**
- Appeal Ref: 6002758 - LPA Ref: **23/01177/FUL (Application D – Western Parcel): Residential development of 44 dwellinghouses with garage and associated driveway, open space, landscaping, drainage and LEAP (Revised scheme 22/01053/FUL)**

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Job Ref: P8204

Date: 25th March 2026

STATEMENT OF COMMON GROUND

**LAND AT CRABTREE FARM, HINCKLEY ROAD, BARWELL,
LEICESTERSHIRE**

Signed on behalf of the Appellant (Barwell Capitol Ltd)

Signature

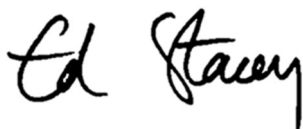
A handwritten signature in grey ink, appearing to read 'S. Hawley', with a stylized flourish at the end.

Print Name Simon Hawley (Director, Harris Lamb)

Date 25th March 2026

Signed on behalf of Hinkley and Bosworth Borough Council

Signature

A handwritten signature in black ink, appearing to read 'Ed Stacey', with a stylized flourish at the end.

Print Name Edward Stacey (Planning Manager)

Date 25th March 2026

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EXECUTIVE SUMMARY

This Statement of Common Ground has been agreed between Barwell Capitol Ltd (“*the Appellant*”) and Hinckley and Bosworth Borough Council’s (“*HBBC*”).

The summary position is:

- Four planning applications for Crabtree Farm were refused by HBBC.
- All four of the Decision Notices contained the same two reasons for refusal.
- Reason for Refusal 2 has now been resolved. HBBC is of the view that all the issues raised in Refusal Reason 2 have now been addressed to the point that in the overall planning balance the Local Planning Authority no longer considers the issues raised to represent a separate reason for refusal.
- The only matter of dispute between the two parties now relates to Reason for Refusal 1, specifically whether the Education and NHS contribution are CIL compliant and should be included within the S.106 agreements.
- The S.106 agreements include a “blue pencil” clause to allow the Inspector to strike out obligations should they deem necessary.

1.0 INTRODUCTION

1.1 This Statement of Common Ground (“**SoCG**”) has been prepared in support of four planning appeals submitted by Barwell Capitol Ltd (“**the Appellant**”) following Hinckley and Bosworth Borough Council’s (“**HBBC**”) refusal of four separate planning applications:

- Planning Application 23/01184/FUL (“**Appeal Scheme A**”)
- Planning Application 23/01175/FUL (“**Appeal Scheme B**”)
- Planning Application 23/01186/FUL (“**Appeal Scheme C**”)
- Planning Application 23/01177/FUL (“**Appeal Scheme D**”)

1.2 The planning application sites are located on a parcel of land to the south of Hinckley Road, Barwell, known as Crabtree Farm (“**the Appeal Site**”). The four application sites overlap such that four plots, 54 to 57, lie in the red lines boundaries of all 4 applications¹ and the proposed developments are interrelated.

1.3 The SoCG has been prepared in accordance with the guidance set out in the Procedural Guide: Planning Appeals England (June 2025) – Statement of Common Ground. It records the agreed position between the Appellant and HBBC in respect of the Appeal Scheme, the surrounding area and material planning considerations. It is signed by Harris Lamb Planning Consultancy (“**HLPC**”) on behalf of the Appellant and **Edward Stacey** on behalf of HBBC. The SoCG has been prepared in order to assist the Inspector in determining the procedure and outcome of the planning appeal.

Background

1.4 The descriptions of development of the four planning applications assigned by HBBC are set out below:

- **Appeal Scheme A:** Residential Development of 16 Dwellinghouses with

¹ It should be noted that plots 54 to 57 are only proposed for development in Appeal Scheme C.

Associated Garages, Driveway, Open Space, Landscaping, Drainage and LEAP

- **Appeal Scheme B:** Residential Development of 51 Dwellinghouses with Associated Access and Parking (Revised Scheme 21/00695/FUL)
- **Appeal Scheme C:** Residential Development of 14 Dwellinghouses with Associated Garages, Driveway, Open Space, Landscaping, Drainage and LEAP
- **Appeal Scheme D:** Residential Development of 44 Dwellinghouses with Associated Garages, Driveway, Open Space, Landscaping, Drainage and LEAP (Revised Scheme 22/01053/FUL)

1.5 The total number of dwellings referred to in the four Description of Developments is 125 dwellings. However, following the refusal of the applications, amendments were made to the scheme to try to address the Refusal Reasons. This resulted in the number of dwellings proposed by planning application 23/01186/FUL being reduced from 14 to 13 dwellings, equating to a total of 124 dwellings across Appeal Site as a whole. These changes were the subject of discussion with HBBC and subject to Wheatcroft consultation. The details of the Wheatcroft consultation are set out in Section 6 of the Appellant's Statement of Case (CD E2). It is requested that the Appeal is determined based on the Wheatcroft consultation plans.

1.6 It should be noted that the only further change made to the layout plans since the Wheatcroft consultation has been to reflect the change in tenure of two plots from market to affordable (plots 120 and 121). The post-determination plans requested to be considered through the Appeals are set out in Groups L, O, R and U of the Core Documents List.

1.7 The planning applications were submitted to HBBC simultaneously so they could be determined concurrently. The four planning applications were prepared by the Appellant in order to provide a comprehensive design solution for the Appeal Site, although the east and west fields could be delivered independently of one another. Separate S.106 have been prepared for the East and West fields. An Overall Site Layout Plan (ref. A951 005 P) is provided that shows how the four applications interlink (CD L1, CD O1, CD R1, CD U1).

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

1. *The applicant is unwilling to agree Section 106 contributions for the delivery of library services, education provision, health services, or travel packs. As such the applications 23/01175/FUL, 23/01177/FUL, 23/01184/FUL and 23/01186/FUL fail to make necessary, fair and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities contrary to Policy DM3 of the Site Allocations and Development Management Policies Development Plan Document and Policy 19 of the Core Strategy.*

2. *When taken together as a whole, the revised layout and increased density of applications 23/01175/FUL, 23/01177/FUL, 23/01184/FUL and 23/01186/FUL results in poor design by virtue of an unadoptable internal road layout and a lack of usable open space. This causes three issues, insufficient on-site open space, waste collection issues by virtue of refuse vehicles being unable to access the substandard internal roads of the site, and potentially unsustainable management liabilities for future occupiers. The applicant is unwilling to agree S106 contributions for the off-site provision of casual informal and natural green space; the applicant has also failed to provide conceptual details of the future management of the site's open space, roads and footpath and waste collection. The schemes are therefore contrary to Policies DM10 and DM17 of the Site Allocations and Development Management Policies Development Plan Document (2016), to the Council's Good Design Guide and to key paragraphs 129, 135 and 139 of the National Planning Policy Framework (2024).*

1.9 HBBC are no longer seeking to defend Refusal Reason 2. HBBC are satisfied that the issues raised in Refusal Reason 2 have been addressed to the point that in the overall planning balance the Local Planning Authority no longer considers the issues raised to represent a separate reason for refusal, subject to the imposition of appropriate conditions. The matter of dispute between the two parties is whether the

Education and NHS contributions are CIL compliant and should be included within S.106s. The S.106s include a “blue pencil” clause.

- 1.10 The Decision Notices and Delegated Officers Report for each application are provided in Core Documents CD D1 – CD D5.
- 1.11 Should the Appeal be allowed a draft schedule of suggested conditions is provided in Section 8.

Rationale Behind the Four Planning Applications

- 1.12 On 6th October 2023 HBBC granted full planning permission (reference 22/01053/FUL) that allowed for the development of 45 dwellings with garages, associated driveways, open space, landscaping and a LEAP on the western section of the Appeal Site. This planning permission is extant.
- 1.13 On 31st March 2023 planning application 21/00695/FUL was approved at appeal, granting full planning permission for the development of 51 dwellings with associated access and parking on the eastern section of the Appeal Site. This permission is also extant.
- 1.14 At the time of the submission of planning applications 21/00695/FUL and 22/01053/FUL, Regulation 8 of the 2012 Fee Regulations allowed for a “free go”, meaning that a planning application could be made without paying a fee where:
 - The application is made by or on behalf of the same applicant.
 - The application is made within 12 months of the date of the grant of planning permission or the grant of the approval of Reserved Matters.
 - That the application relates to the same site and to no other land except land included solely for the purposes of providing a means of access to the site.
 - Where the form of the application is the same (i.e. a full planning application can only be submitted where the site has a full planning permission).

- 1.15 Appeal Scheme B, which proposes 51 dwellings was submitted as a “free go” in relation to planning permission reference 21/00695/FUL. Appeal Scheme D, proposing 44 dwellings, was submitted as a “free go” in respect of planning permission reference 22/01053/FUL.
- 1.16 The red line boundary of both Appeal Scheme B and D are the same as their preceding planning applications which means they qualified for the “free go”. These applications focus development on the southern sections of the Site leaving land available in the northern section of the site for further development.
- 1.17 Planning Applications C and A propose the development of 13 and 16 dwellings respectively. Both applications relate to the northern section of the Appeal Site. They propose the development of new housing and associated infrastructure on the surplus land identified by Planning Applications B and D. They do not compromise the delivery of Planning Applications B and D. They make use of the land within these applications that is not subject to any form of development proposals. The individual layout plans for the applications are provided at CD L7, CD O7, CD R7 CD U7 (Appeal Schemes A-D respectively). The wider development scheme is ‘hatched out’ on each plan to demonstrate how the schemes interrelate.

2.0 DESCRIPTION OF THE APPEAL SITES AND SURROUNDING AREA

Appeal Site A

- 2.1 The Appeal Site for scheme A is located to the north-east corner of the Appeal Site and extends to 0.94 hectares in size. The parcel of land is currently undeveloped open field.

Appeal Site B

- 2.2 Appeal Site B encompasses the central and south eastern section of the Appeal Site and extends approximately 2.5 hectares in size. The site is currently an agricultural field with strong defensible boundaries.

Appeal Site C

- 2.3 Appeal Site C is located to the north-west corner of the Appeal Site and extends to 0.64 hectares in size. This parcel of land has well-defined landscape boundaries and is bounded with trees.

Appeal Site D

- 2.4 Appeal Site D includes the central and south western part of The Appeal Site, extending to 2.29 hectares in size. The parcel of land is tree lined with well-defined landscape boundaries.
- 2.5 Appeal sites A and B in combination are the “eastern field”. Appeal sites C and D in combination are the “western field”.

Crabtree Farm

- 2.6 The site as a whole extends to approximately 4.8 hectares and comprises of an irregular-shaped greenfield site. The land is agricultural/pastoral use.
- 2.7 The Appeal Site has strong boundary features. The northern boundary of the site is formed by Hinckley Road. There is a ribbon development along the northern side of Hinckley Road immediately opposite the Appeal Site. The land to the east is residential in nature, the Site abuts the properties access off Crabtree Road and Powers Road and the Tweeds River Play Park. To the south and west of the site are agricultural fields, beyond which is the A47, which separate the site from Hinckley.

- 2.8 The Appeal Site is not located within the Green Belt, a Conservation Area, a designated habitat site, SSSI, Local Green Space, a Natural Landscape, National Park, Defined Heritage Coast, irreplaceable habitat or an area at risk of flooding or coastal change.
- 2.9 Barwell has a range of shops, services and facilities including an infant and primary school, nursery, along with a range of shops, including a Co-Op supermarket, restaurants and public houses, bank, medical centre and village/community hall, all of which are located within one kilometre of the site and therefore accessible by walking or cycling. The range of shops and services is sufficient to meet the day-to-day needs of residents. The Site is located in a sustainable location for development.
- 2.10 Employment opportunities are available in the industrial estate located on the north side of Mill Street, just to the north of the site. Higher order shops, services and employment opportunities, along with secondary school provision, can be found in Hinckley which is located approximately two kilometres south of Barwell.
- 2.11 The closest bus stop to the site is located on Hinckley Road (St Mary's Avenue), approximately 200 metres from the entrance to the Site. Services 148 and 158 stop here and provide links to the centre of Barwell, Leicester, Nuneaton and Coventry. The closest train station is Hinckley, which provides links to Leicester and Birmingham.

3.0 PROPOSED DEVELOPMENT

Appeal Scheme A: Residential Development of 16 Dwellinghouses with Associated Garages and Driveways and Associated Infrastructure.

- 3.1 Appeal Scheme A relates to the north east corner of Crabtree Farm. Full Planning permission is sought for the development of 16 dwellings and associated infrastructure, including a balancing pond.
- 3.2 The proposed development is served by a central spine road connected to the Hinckley Road to the immediate west of 45 Hinckley Road. 11 properties are proposed to the west of the spine road and a further 3 to the east. The majority of the properties front on to the Hinckley Road or spine road. The Layout Plan (ref. A951 012 D) is provided at CD L7.

Appeal Scheme B: Residential Development of 51 Dwellinghouses with Associated Access and Parking (Revised Scheme 21/00695/FUL)

- 3.3 Appeal Scheme B is located to the south-east of the site, immediately south of Appeal Scheme A. Full planning is sought for the development of 51 dwellings, a balancing pond, LEAP, public open space and associated infrastructure. The balancing pond is proposed in the same location and is identical to the balancing pond proposed by Appeal Scheme A, so it is consistent across the entire development. As such, the red line of the applications overlap. The balancing pond is required to serve the development proposal. Appeal Scheme B has the same red line as the previously approved planning application 21/00695/FUL.
- 3.4 The site is connected to Hinckley Road by a spine road that passes through the site of Appeal Scheme A. The dwellings in the central section and southern edge of the site are accessed from the spine road and a series of private drives connecting to the spine road. The dwellings on the eastern edge of the site seek to respond to and reflect the character of the properties to the east. The dwellings on the southern edge of the site face outwards, across the private drive, to the countryside beyond.
- 3.5 A LEAP is located on the western central boundary of the site. It is in the same location as that shown by Appeal Scheme D. The Layout Plan (ref. A951 009 D) is provided at CD O7.

Appeal Scheme C: Residential Development of 14 dwellinghouses, with Associated Garages, Driveway, Open Space, Landscaping, Drainage and LEAP

- 3.6 Appeal Scheme C is located to the north-west of the Appeal site. Full planning permission is sought for 13 dwellings alongside the balancing pond and associated infrastructure. The red line overlaps with Appeal Scheme A, so that both schemes can provide the balancing pond, as this drainage infrastructure is required to serve both developments.
- 3.7 Access to the Site is served from Hinckley Road. The access road broadly follows the western edge of the Application Site extending to the site's southern boundary. 12 of the residential properties are located to the east of this road, predominantly serviced from a private drive. A further residential dwelling is proposed on the western edge of the site. The Layout Plan (ref. A951 011 D) is provided at CD R7.

Appeal Scheme D: 44 Dwellinghouses with Associated Garages, Driveway, Open Space, Landscaping, Drainage and LEAP.

- 3.8 Appeal Scheme D is located to the western and south-western edge of the Appeal Site. The red line is the same as that for planning permission 22/01053/FUL.
- 3.9 Appeal Scheme D proposes the development of a balancing pond in the north east corner of the site. This is the same position as the balancing pond proposed in the other applications. It also includes the first part of the spine leading towards the central and southern sections of the site, in exactly the same way as Appeal Scheme B includes the part of the spine road in Appeal Scheme A.
- 3.10 9 dwellings are proposed in the north-west corner of the site. These dwellings have a shared rear garden line and face north and south towards the Hinckley Road and a private drive. The dwelling at the entrance to the site and where the spine turns are corner turners.
- 3.11 The central and southern section of the site provides the remainder of the dwellings. The dwellings on the western edge of the site face the central spine road and the rear gardens immediately abut the landscape buffer that runs along the full edge of the site. The properties on the southern edge of the site face outwards, overlooking the fields beyond. The dwellings in the centre east of the site are accessed from private drives, beyond

which is the LEAP and an area of public open space (as referred to above the LEAP is included within Appeal Scheme B, the red lines overlap). The Layout Plan (ref. A951 010 D) is provided at CD U7.

The Combined Scheme

- 3.12 The Appeal Scheme as a whole (all four applications in combination) proposes the development of 124 dwellings with associated public open space, children's play area, balancing pond and infrastructure.
- 3.13 The scheme has been designed so that there will be two accesses to the site from Hinckley Road. The eastern access will serve 67 dwellings, and the western access will serve 57 dwellings. A central spine road is located through the middle of both sites, with secondary roads and private drives serving the dwellings. The eastern field and western field can be delivered independently from one another. Separate S.106 agreements have been prepared for the eastern and western fields.
- 3.14 The northern section of the site has been designed so that the western most properties have the same building line as the existing properties facing on to the Hinckley Road to the east. A SUDs pond is located towards the central section of the northern part of the site. All of the dwellings on the northern edge of the site face towards Hinckley Road.
- 3.15 The eastern boundary of the site adjoins existing residential properties. The dwellings in this location seek to protect the privacy and amenity of these dwellings whilst reflecting their scale and location. The scheme retains a hedgerow along most of the eastern boundary, except for the two access points to the private roads off Crabtree Road and Powers Road. As a result of the retained hedge no direct link is provided to the existing play area adjacent to the site on its eastern boundary.
- 3.16 The dwellings on the southern edge of the site all face outwards and are served by private drives. There is the opportunity for landscape planting along the southern edge of the site helping to enhance and reinforce the existing hedgerow in this location.
- 3.17 The western boundary of the site is formed by a landscape buffer that extends the entire length of the site. There is existing hedgerow in this location that will be reinforced through additional planting to help create a clear degree of separation between the built up area of Barwell and the fields to the west

- 3.18 A LEAP is located towards the centre of the site, so it is within easy access of all the site's residents. The LEAP is included in the red line of Appeal Site B and Appeal Site D. The two proposed S.106 are structured to require the scheme that is built out first to provide the LEAP.
- 3.19 The scheme as a whole seeks to provide a variety of property types to meet the needs of all the community.
- 3.20 Submitted with each Appeal are individual Layout Plans, that show the development proposed by that scheme and how it interacts with the adjoining development proposals. These also identify the extent of the red line for each Appeal Site and the development proposed within the red line. The plans also show the development proposed by the three other planning applications, cross hatched out, so it can be clearly seen what development is proposed by each application. The Layout Plans for individual Appeal Schemes can be found in CD L7, CD O7, CD R7 and CD U7.
- 3.21 In order to assist in the determination of this Appeal, a site wide masterplan plan (ref. A951 005 P) is provided. This masterplan shows the four application schemes in combination. The overall masterplan can be found at CD L1, CD O1, CD R1 and CD U1.

4.0 PLANNING HISTORY

- 4.1 The Appeal Site and the land to the west have been the subject of a number of planning permissions and appeals that are relevant to the Appeal Schemes. The site's planning history is summarised below.

Outline application for 25 dwellings and a burial ground Crabtree Farm Planning Application 18/00279/OUT

- 4.2 Planning application 18/00279/OUT was registered by HBBC on 15 March 2018. The planning application was submitted in outline form proposing the development of 25-dwellings, public open space and land for a new burial ground on land at Crabtree Farm. The indicative masterplan submitted with the application showed a scheme of 25 units on the eastern section of the site and land for a burial ground on the western section of the site. The application proposed the creation of two separate accesses to serve the housing element and burial ground respectively. The submitted Site Location Plan and Indicative Layout Plan for this permission can be found at CD D8 and CD D9 respectively.
- 4.3 The Decision Notice (CD 10) contained a single reason for refusal, set out below:

“The proposed scheme would result in unsustainable residential development in the designated countryside outside the settlement boundary of Barwell and within the Hinkley/Barwell/Earl Shilton/Burbidge Green Wedge, resulting in significant and permanent environmental harm that would damage the function of the Green Wedge and neither compliment nor enhance the intrinsic value, beauty, undeveloped rural character of the area. The proposal would therefore be contrary to policies 6 and 20 of the adopted Core Strategy and policies DM1, DM4 and DM10 of the adopted Site Allocations & Development Management plan document (2016) and the overarching principles of the National Planning Policy Framework (2018).”

Outline application for 25 dwellings and a burial ground Planning Appeal APP/K2420/W/19/3222850

- 4.4 Following the refusal of planning application 18/00279/OUT an appeal was made. Planning permission was granted at Appeal on 2nd July 2019 (CD G3). The Inspector

4.5 identified two main issues for consideration as part of the appeal (paragraph 4):

- Whether the proposed housing would be in an acceptable location, having regard to development plan and national planning policies that seek to manage the location of new development; and
- The effect of the development on the character and appearance of the area and on the role and function of the Hinckley/ Barwell/Earl Shilton/Burbidge Green Wedge.

4.7 In granting planning permission, the Inspector concluded that the “tilted” balance referred to in paragraph 11d of the NPPF was engaged. The proposed dwellings would be located in an accessible location and will bring economic and other benefits. This should be weighed against the harm, in respect of the character and appearance of the area and the role and function of the Green Wedge. It was the Inspector's view that harm would be limited in the wider context and would not outweigh the significant benefits of the proposal. *“Let alone, significantly and demonstrably outweigh when assessed against the Framework as a whole.”* (paragraph 54).

25 dwellings reserved matters application

Reserved Matters Application 20/01172/REM

4.8 A Reserved Matters application, seeking approval of appearance, landscaping, layout and scale (all of the outstanding reserved matters) related to the residential element of outline planning permission 18/00279/OUT was submitted to HBBC on 5th November 2020. This application was submitted by the Appellants. This application was approved on 30th June 2021. The approved Layout Plan is provided at CD D11. The Decision Notice is provided at CD D12.

4.9 The Reserved Matters application did not seek approval for the burial ground, no details of a burial ground scheme were provided as part of the submission. It is no longer possible to apply for Reserved Matters approval for the burial ground, as condition 2 of the outline planning permission required all application for Reserved Matters to be made within 18 months of the approval of the outline planning permission i.e. 2nd January 2021. The S.106 associated with outline planning permission 18/00279/OUT requires the burial ground land to be transferred to the Parish Council for £1 at first occupation. Given that no dwellings have been built or occupied this trigger has not been met.

Burial ground planning application
Full Planning Application 19/00393/FUL

- 4.10 On 4th April 2019 a planning application was submitted proposing the change of use of land to a burial ground, new access, landscaping and car parking. This planning application relates to the site to the west of the Appeal scheme. Planning permission was subsequently granted on 4 September 2019 (the approved Layout Plan is provided at CD D13 and the Decision Notice is provided at CD D14). The planning permission has not been implemented.

25 dwelling outline planning application
Outline Planning Application 21/00581/OUT

- 4.12 On 6th May 2021 an outline planning application was submitted proposing the development of 25 dwellings on the burial ground section of the application site. The application was validated on 2nd June 2021. As a 'major' application the scheme had a 13 week determination period and should have been determined by 1st September 2021. The application was not determined by HBBC and a non-determination appeal was made.

25 dwellings outline planning application
Planning Appeal APP/KT420/W/21/3284379

- 4.13 Following the failure of HBBC to determine the planning application 21/00581/OUT within the 13 week period, the Appellant decided to pursue a non-determination appeal (Appeal Ref: APP/K2420/W/21/3284379). The Appeal was allowed on the 1st June 2022, and planning permission granted for the proposed development.
- 4.14 The Inspector identified three "Main Issues" in the determination of the appeal, namely:
- The effect of the proposal on the landscape character and appearance of the area having regard to the site's location within the Green Wedge;
 - Whether or not the proposals include adequate infrastructure directly required by the development; and

- Whether or not it is necessary to undertake a planning balance having regard to the agreed housing land supply within the Borough.

4.15 In granting planning permission, the Inspector noted that both parties agreed that the Council could not demonstrate a five-year housing land supply, engaging Paragraph 11d(ii) of the Framework. The scheme conflicted with adopted policies and recognised that it could erode the recreational and access functions of the Green Wedge as an area of green infrastructure in this location. The landscape and visual harm arising from the Appeal scheme would be localised and limited. In contrast significant weight was afforded to the scheme addressing the continued under supply of housing land in HBBC together with its economic, environmental and social benefits. When considered against the policies in the Framework overall these matters weighed in favour of the Appeal scheme (paragraph 62). The Decision Notice for the appeal can be found at CD G5.

**Full Planning Permission for 51 Dwellings with Associated Access and Parking
21/00695/FUL / Appeal Ref. APP/K2420/W/22/3308175**

4.16 On 12th July 2021 the Council registered planning application 21/00695/FUL. This planning application proposed the redevelopment of part of Crabtree Farm for 51 dwellings with associated access and parking. A non-determination appeal was made following HBBC failing to determine the application within the prescribed time. Planning permission was granted at appeal on 31st March 2023. Condition 1 required the development to commence within 3 years of the date of grant of planning permission. As such the Applicant has until 31st March 2026 to start development. This is, therefore, an extant planning permission.

4.17 In determining the appeal, the Inspector identified 5 main issues, namely:

- The effect of the proposal on the character and appearance of the area;
- The effect of the proposal on the living conditions of occupier of the development;
- The effect of the proposal on the occupier of a neighbouring dwelling, 13 Powers Road;
- Whether or not the proposal would safeguard protected species and provide a net biodiversity gain; and

- Whether or not the proposal makes appropriate provision for affordable housing and other infrastructure facilities necessary to make the development acceptable.

4.18 Having considered these matters the Inspector found that the development was acceptable in all regards and subsequently granted planning permission. The Inspector's Report can be found at CD G1.

Full Planning Permission for 45 Dwellings with Garages and Associated Driveways, Open Space, Landscaping, Drainage and a LEAP 22/01053/FUL

4.19 Planning application reference 22/01053/FUL was registered by the Council on 7th November 2022. Planning permission was sought for the construction of 45 dwellings with garages and associated driveways, open space, landscaping, drainage and a LEAP. The local authority granted planning permission for the scheme on 6th October 2023.

4.20 Planning permission was granted under delegated powers. The Delegated Officer's report (CD D15) concludes that the proposed development constitutes sustainable development (paragraph 10.1). It is advised that the development falls within what is "now regarded to be the settlement boundary" (paragraph 10.2). No adverse impacts were identified to arise from the scheme that would significantly and demonstrably outweigh the public benefits (paragraph 10.4). Weighing all the factors into the planning balance, having regard to the NPPF as a whole, it was considered that the development proposal represents a sustainable form of development and planning permission should be granted subject to the implementation of conditions and an appropriate S.106 agreement.

4.21 The planning history is a material planning consideration in the determination of the four planning appeals. It establishes that the principle of residential development in this location is acceptable.

5.0 PLANNING POLICY GUIDANCE

- 5.1 A number of planning policy documents are relevant to the consideration of the appeals. These include national planning policy, development plan policy and supplementary planning documents/guides. A list of the relevant policies is set out below:

LEGISLATION AND NATIONAL PLANNING POLICY

- 5.2 Relevant legislation and national planning policy comprises of:

- Town & Country Planning Act 1990
- Planning & Compulsory Purchase Act 2004
- Town & Country Planning (Development Management Procedures)(England) Order 2015
- Community Infrastructure Levy Regulations 2010
- Localism Act 2011
- Growth & Infrastructure Act 2013
- National Planning Policy Framework (2024)
- Planning Practice Guidance (2024)

THE DEVELOPMENT PLAN

- 5.3 The Hinckley and Bosworth Development Plan consists of the:

- Core Strategy (adopted 2009)
- Site Allocations and Development Management Policies (SADMP) DPD(2016)
- Earl Shilton and Barwell Area Action Plan (ESBAAP) (2014)

Hinckley and Bosworth Core Strategy (2009)

- 5.4 The Core Strategy was adopted in 2009 and covers the period 2006 to 2026. Relevant policies include:

- Policy 3: Development in Barwell
- Policy 6: Hinckley/Barwell/Earl Shilton/Burbage Green Wedge
- Policy 15: Affordable Housing
- Policy 16: Housing Density, Mix and Design
- Policy 19: Green Space and Play Provision
- Policy 20: Green Infrastructure

Site Allocations and Development Management Policies Development Plan Document (2016)

5.5 The SADMP DPD was adopted in 2016 and identifies sites for uses such as housing, employment, retail, open space and community facilities that will deliver the aims, vision and objectives of the Core Strategy. The policies will be used to assess planning applications over the plan period. Relevant policies include:

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

Emerging Planning Policy

5.6 Paragraph 49 of the Framework advises that decision makers may also give weight to relevant policies in the emerging Plan according to:

- a. The stage of preparation of the emerging Plan; the more advanced the preparation, the greater the weight that may be given;

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

5.7 HBBC undertook a Regulation 18 Consultation on the emerging Local Plan in July-September 2024 (CD B5) and a further Regulation 18 Consultation on the emerging Local Plan in October-November 2025 (CD B6). The most recent consultation related only to specific new or updated policies and site allocations. The final list of identified housing and employment allocations will be set out in the Regulation 19 pre-submission version of the Local Plan, anticipated for Spring 2026. Adoption of the Local Plan Review is not anticipated until 2027 (accordingly to Local Development Scheme, March 2025).

5.8 As the emerging Local Plan is still in the early stages of preparation (Regulation 18), it should be afforded limited weight in the determination of the Appeal

OTHER MATERIAL CONSIDERATION

National Planning Policy Framework

5.9 The relevant sections of the Framework are:

- Section 1 - Introduction
- Section 2 – Achieving Sustainable Development
- Paragraph 11 – The presumption in favour of sustainable development
- Section 4 – Decision-making
- Section 5 – Delivering a sufficient supply of homes
- Section 8 – Promoting healthy and safe communities
- Section 11 – Making efficient use of land
- Section 12 – Achieving well-designed places
- Section 15 – Conserving and enhancing the natural environment
- Section 16 – Conserving and enhancing the historic environment

- Paragraph 49 – the weight to give policies in emerging plans
- Annex 1 and Annex 2

5 Year Housing Land Supply

- 5.10 HBBC's most recent Five Year Housing Supply ("5YHLS") Statement 1 April 2023 – 31 March 2028 (CD F1) confirms the Council's stated 5 year housing land supply position as of 1 April 2023. The Council's calculation for the period suggested a 5.6 year housing land supply. This calculation was based on an out of date housing requirement figure. This position has, however, been superseded.
- 5.11 In appeal decision APP/K2420/W/24/3348387 (13 March 2025) (CD G2), it is stated that the Council confirms it can only demonstrate a 3.55 year supply. This calculation is based on the methodology applied in the Framework including the application of the 5% buffer. More recently a Statement of Common Ground for appeal APP/K2420/W/25/3372919 set out that the Council's Policy Team confirmed that, as of 29 July 2025, the Local Planning Authority could demonstrate a 3.89-year supply of land for housing. These figures were indicative and were expected to decrease slightly as the monitoring exercise was further progressed. It is agreed that the Council cannot demonstrate a five year housing land supply. Therefore, the Appeal Scheme should be determined in accordance with the guidance contained in Paragraph 11d of the Framework.

The Housing Delivery Test

- 5.12 The Housing Delivery Test results for Hinkley and Bosworth are set out below:
- 2018 – 141 %
 - 2019 – 119%
 - 2020 – 92%
 - 2021 – 86%
 - 2022 – 89%

Other Material Considerations

- 5.13 Other relevant guidance / studies:

- Landscape Character Assessment (2017) (CD F6)
- Landscape Sensitivity Study (2017) (CD F7)
- Affordable Housing SPD (2011) (CD B8)
- Open Space Assessment September 2025 (CD B9)
- Hinckley/Barwell/Earl Shilton/Burbage Green Wedge Review (2020) (CD F2)
- Hinckley and Bosworth Green Infrastructure Strategy (2020) (CD F8)

6.0 MATTERS OF AGREEMENT

6.1 The following matters are agreed by all parties.

Principle of Development

6.2 The principle of residential development taking place on the Appeal Site has been established through previous planning applications.

Extant Permissions

6.3 Extant permissions for a total of 96 dwellings exist (21/00695/FUL and 22/01053/FUL). The majority of pre-commencement conditions have been discharged for 21/00695/FUL.

6.4 The site is considered to form part of the built-up area of Barwell.

The NPPF

6.5 Paragraph 11(d) of the NPPF is engaged due to a five-year housing land supply shortfall and due to the fact that the Development Plan is out of date in its own right. As such planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

6.6 The site is not subject to any of the protected area policies or assets of particular importance identified in footnote 7 of the NPPF.

Housing Land Supply

6.7 It is agreed that the Council are currently unable to demonstrate a five-year supply of land for housing. It is HBBC's view that the benefit in providing an additional 28 dwellings in addition to the 96 dwellings that already have planning permission should be afforded moderate weight in the planning balance. It is the Appellant's view it should be afforded significant weight.

The Appeal Site

- 6.8 The site is a locationally sustainable site in terms of access to services, facilities and means of transport other than the car for a residential development of the proposed scale.
- 6.9 A policy-compliant level of affordable housing will be provided which will be reflected in the Section 106 Agreement.

Resolution of Refusal Reason 2

- 6.10 Refusal Reason 2 states that when taken together as a whole, the revised layout and increased density (compared to the previously approved schemes) results in poor design by “virtue of an unadoptable internal road layout” and a lack of usable open space which means that refuse vehicles would be unable to access the substandard internal roads of the site, and potentially unsustainable management liabilities for future occupiers. Reason Refusal 2 is founded upon the road layout being deemed unadoptable by HBBC and that there was a lack of usable open space at the time of determination.
- 6.11 Amendments were made to the internal road layout after the applications were refused and subject to Wheatcroft consultation (CD C8; CD L2-L6, CD O2-06, CD R2-R6, CD U2-U6). The Appellant’s Highways Consultant, Mr Taylor of Savoy Consulting, has produced a Statement of Case (CD E13) confirming his professional opinion that the internal road layout is capable of adoption.
- 6.12 The Highway Authority is yet to respond to the Wheatcroft plans at the time of writing. However, should the Highway Authority not deem the road layout to be adoptable, the Appellant will arrange for management of the road network and waste collection through the use of a private management company. HBBC agree that it is not required that the roads are adopted by the Highway Authority and the use of a private management company is an appropriate fall-back option.
- 6.13 Refusal Reason 2 also states that the applicant is unwilling to agree S.106 contributions for the provision of casual informal and natural green space. The Appellant does not dispute the requirements for open space provision, and this included within the S.106 agreement.

- 6.14 Reason for Refusal 2 has now been addressed to the point that in the overall planning balance the Local Planning Authority no longer considers the issues raised to represent a separate reason for refusal.

Approach to Planning Obligations

- 6.15 Whilst the use of two Section 106 agreements is not HBBC's preferred approach, HBBC agree with the Appellant that this is acceptable for the purposes of securing planning obligations for the four appeals. Separate S.106 have been prepared for the Eastern and Western fields.

Other Material Considerations

- 6.16 No objections were received from the following consultees, subject to conditions attached to the decision notice:

- LCC Ecology
- LCC Drainage
- LCC Arboricultural Officer
- LCC Archaeology
- HBBC Environmental Services
- Environment Agency

- 6.17 No concerns have been raised in relation to:

- The accessibility of the site to services, facilities and other means of transport;
- Residential amenity of existing adjoining residents;
- Flood risk and drainage;
- Archaeology;
- Contamination; and
- Trees.

- 6.18 The emerging replacement Local Plan proposes to include the Appeal Site within the settlement boundary of Barwell and remove its Green Wedge designation.

7.0 MATTERS OF DISPUTE

7.1 The matters of dispute between the Appellant and the LPA are:

- 1) Section 106 contributions for education provision and health services.

8.0 CONDITIONS

- 8.1 The proposed conditions will be completed by the Council.