



WILKINSON
PLANNING

Statement of Case

APPEAL SITE

Land West of Breach Lane, Earl Shilton, Leicester,
Leicestershire, LE9 7FB

APPEAL

Appeal under Section 78 of the Town & Country
Planning Act 1990 against a refusal of: Variation to
conditions 1 (Plans) and 3 (Hard and Soft
Landscaping) application 25/01175/CONDIT
attached to planning permission 24/00343/CONDIT
under S.73 of the Town and Country Planning Act
for; Erection of gates and associated enclosure

APPEAL BY

Stronghold Homes Ltd

May 2026

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1.0 Introduction

- 1.1 This Statement of Case ('Statement') is prepared in support of an appeal by Stronghold Homes Ltd ('The Appellant') against the decision of Hinckley and Bosworth Borough Council ('The Council') to refuse to grant Variation of Condition 1 (Plans) and Condition 3 (Hard and Soft landscaping) application 25/01175/CONDIT attached to planning permission 24/00343/CONDIT under S.73 of the Town and Country Planning Act for; Amendments to include new gates and means of enclosure ('The Proposal') at Land West of Breach Lane, Earl Shilton, Leicester, Leicestershire, LE9 7FB ('The Appeal Site')
- 1.2 The application (ref. 25/01175/CONDIT) was registered on 8th December 2025 and refused on 6th March 2026, for the following reasons for refusal ('RfR'):

1. REASON FOR REFUSAL - DESIGN AND APPEARANCE

By virtue of the siting, height, length, and appearance of the proposed gate, wall and fencing and inadequate soft landscaping the proposal would have a significant adverse impact on the character and appearance of Breach Lane failing to complement or enhance the character or appearance of the site, surrounding area or countryside. Furthermore, the amendments would materially diminish the quality of the approved development. Therefore, the development is contrary to Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy 22 of the Earl Shilton and Barwell Area Action Plan (2014), the adopted Good Design Guide (2020) and paragraph 135 and 140 of the National Planning Policy Framework (2024)."

- 1.3 It is important to note first and foremost that, of the Officer's RfR relating to matters to be considered as part of the application, no consultees considered the proposal to be unacceptable.

1.4 This Statement is submitted having had regard to the *Procedural Guide: Planning Appeals - England (The Planning Inspectorate, March 2026)*. As such, this Statement is kept as concise as possible and should be read in conjunction with the documents submitted with the application, which remain pertinent.

1.5 This Statement will demonstrate that the appeal development is sustainable and should be approved when considered against the development plan and other material considerations including the NPPF. On that basis, the Inspector will be invited to allow this appeal.

2.0 Site and Surrounding Area

2.1 A description of the site and its surroundings were provided in the application Planning Statement and other associated documents. A thorough description of the site and surroundings is included further below.

2.2 Noting the Council's decision and Officer's delegated report, the sole points of contention relate to the proposal failing to complement or enhance the character or appearance of the site or surrounding area by way of its scale, location, finish and appearance. The Council considers that the amendments to the extant approval would diminish the quality of the approved development and therefore would be contrary to local and national design guidance. As discussed later in this statement, this appeal contests this contradictory approach and provides multiple routes to approval which we invite the Inspector to consider.

2.3 The application site is located outside of the settlement boundary yet is by no means situated in 'open countryside' given the residential development to the north and west, with allotments to the east. The site is bound to the south by Clickers Way bypass which extends east and west, beyond which more open countryside extends further south. The site is served from the bypass along Breach Lane. Through the eyes of planning policy, the site is located within the countryside, however the approved 9 no. two-storey dwellings infill a parcel of land at the south of the Earl Shilton residential area.

3.0 Proposal

3.1 The appeal relates to variation of conditions 1 and 3 attached to planning permission 24/00343/CONDIT, essentially to deliver a gated entrance to a recently approved and constructed residential site of 9 no. exemplary dwellings. The following plan provides context:

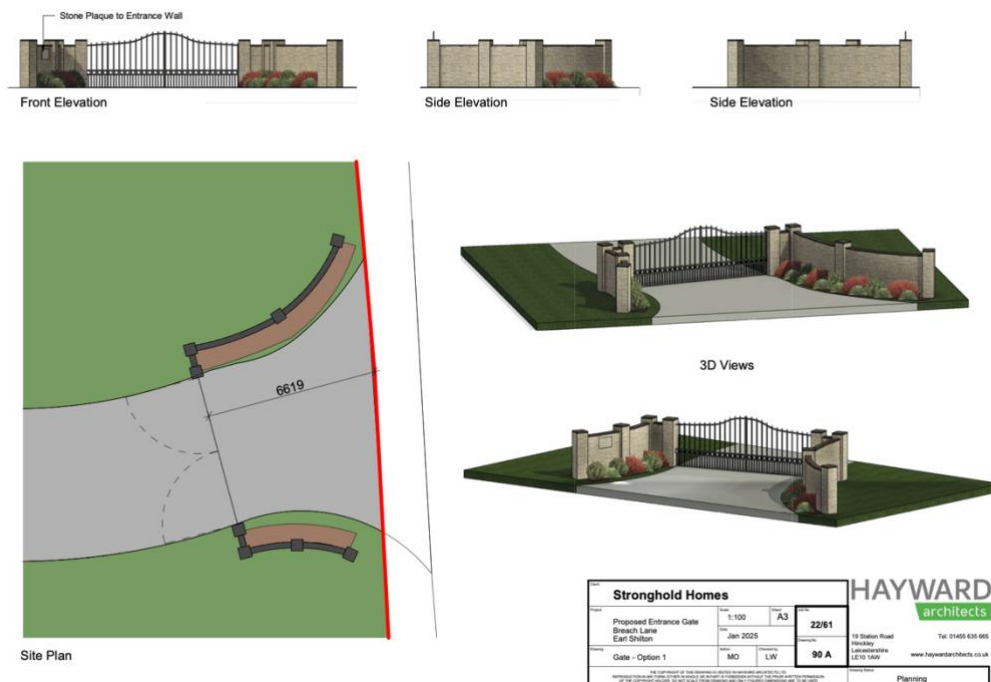


Figure 3.1.1: Proposed Site Plan.



Figure 3.1.2: Proposed Elevations view along Breach Lane.

3.2 The Council focuses much of its case on the proposal constituting inappropriate development beyond the settlement boundary, which does not meet the design guidance outlined in the Hinckley and Bosworth Site Allocations and Development Management Policies Development Plan Document (2016), the Earl Shilton and Barwell Area Action Plan (2014), the Good Design Guide (2020) and the NPPF (2024). As this statement shall go on to discuss, the Council's outcome is somewhat blinkered and not at all aligned with the aspiration of delivering high quality. This has resulted in a particularly mean refusal.

3.3 The Officer states in their delegated report [the 'OR'] that under the extant permission, the entrance to the site is to be open and characterised by hedgerows and planting extending into the site itself to remain in keeping with the character and appearance of the area. However, the Officer considers that the introduction of gates, a brick wall / pillars and fencing to the entrance of the site brings an urban appearance and means of enclosure that would appear as a stark, incongruous and utilitarian feature. Notwithstanding this, the Appellant strongly contests that the proposal would appear isolated and bring such urbanising effects to a rural landscape, given the extent of surrounding, contemporary residential development. The appeal proposal complements the site; **in effect, the tone for the locality has already been set.**

3.4 As demonstrated on the elevation plan, the proposed gate would provide improved security, privacy and a sense of community. This includes providing controlled access to a high-quality residential development whilst complementing the dwellings themselves in respect of scale and appearance.

4.0 Planning Policy

4.1 The National Planning Policy Framework (2024) [and emerging iteration (2026)] contains the Government's planning policies for England and sets out how these are expected to be applied. Planning Law continues to require that applications for planning permission are determined in accordance with the Development Plan unless material considerations indicate

otherwise. The policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.

- 4.2 Section 70(2) of the 1990 Act requires, in dealing with an application for planning permission that a decision taker shall have regard to the provisions of the development plan, so far as is material, and to any other material considerations.
- 4.3 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that if regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts, then that determination must be made in accordance with ‘the Plan’ unless material considerations indicate otherwise.
- 4.4 As well as governmental policy such as that contained within the NPPF, the views of statutory consultees are obviously material considerations and case law has set out that their expert opinions are a matter of considerable impact and weight.¹
- 4.5 Article 35(1)(b) of the DMPO 2015 states that where planning permission is refused, a decision notice *“must state clearly and precisely their full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision”*.
- 4.6 The most important policies for the determination of the appeal are those Local Plan policies set out under the Officer’s Delegated Report, alongside the relevant policies contained in the NPPF:
- Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design
 - Policy 22: Development and Design
- 4.7 The NPPF is supported by the Planning Practice Guidance (PPG), which assists applicants and decision makers in interpretation the NPPF.

¹ *Visao Ltd v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 276 (Admin).

- 4.8 In July 2016, Hinckley and Bosworth Council adopted the Site Allocations and Development Management Policies DPD, which forms part of the statutory development plan and is the principal development plan document for determining planning applications.
- 4.9 The NPPF contains the Government's planning policies for England and sets out how these are expected to be applied. As set out above, the policies contained within the NPPF are a material consideration and should be taken into account for decision-making purposes.
- 4.10 The NPPF sets out in Paragraph 7 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 of the NPPF identifies three overarching objectives in order to achieve sustainable development. The NPPF goes on to state, however, that *"they are not criteria against which every decision can or should be judged"* (para. 9). The policy paragraphs, footnotes, and annexes to the NPPF should be considered as a whole. Nevertheless, the key considerations that apply to this application are dealt with below.
- 4.11 Where there are no policies relevant to the proposal or relevant policies are out-of-date at the time of making the decision then the Council will grant permission unless material considerations indicate otherwise; taking into account whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or specific policies in that Framework indicate that development should be restricted.
- 4.12 This statement will consider the case for the Appellant in dealing with the main issue for the determination of the appeal.

5.0 Statement of Case

- 5.1 The Appellant's case proceeds as follows where the main issue for the appeal turns on whether the design of the gates and associated means of enclosure is acceptable outside of the settlement boundary.

5.2 As above, it is settled that the appeal development is acceptable in all other respects.

The Tilted Balance

5.3 In the recent *Basingstoke and Deane*² case, the importance of this point was discussed. Basingstoke and Deane Borough Council have the “tilted balance” within their development plan through policy SD1 – which is comparable to policy GEN01 of the Local Plan.

5.4 The Inspector determining the appeal found that, despite there being some conflict with some policies in the development plan, there was conformity with the plan overall, saying:

“Looking at the development plan as a whole, the proposal would accord with those policies I have identified above together with Policy SD1. On the other hand, it would conflict with the spatial strategy (Policies SS1, SS6 and HO2) and the landscape policies (Policies EM1 and NE1). Given that the spatial strategy is out-of-date, and that the degree of landscape harm is only of moderate weight, my overall conclusion is that the proposal is in accordance with the development plan as a whole.”

5.5 The Council sought to challenge this decision, arguing that the Inspector ought not to take account whether the spatial distribution policies were out-of-date in deciding whether there was conformity with the plan as a whole.

5.6 The Court dismissed the claim, saying:

“96. In deciding whether the proposal accorded with the development plan as a whole, it was logical and consistent with the application of policy SD1 in this case for the Inspector to take into account the out-of-datedness of the spatial strategy (see last sentence of DL 145). Indeed, to have ignored that factor would have been internally inconsistent and would have failed to apply the development plan as a whole.”

² *Basingstoke and Deane Borough Council v Secretary of State for Levelling Up, Housing and Communities* *Bewley Homes plc* [2024] EWHC 1916 (Admin)

5.7 As such, the inclusion of the ‘presumption in favour’ of sustainable development prescribed within the Local Plan cannot be ignored. This is a useful judgement which is materially relevant in the consideration of; applying the presumption in favour and the “tilted balance”.

5.8 **RfR - Design and impact upon the character of the area and the wider countryside**

5.9 The appellant respectfully disagrees with the Council’s conclusion that the proposed gates and means of enclosure would have a significant adverse impact upon the character and appearance of Breach Lane and the wider countryside. Policy DM10 seeks to ensure development protects and responds appropriately to local landscape character and does not result in unacceptable visual harm. For ease, it is copied insofar, below:

Developments will be permitted providing that the following requirements are met:

- a) It would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion;*
- b) The amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site*
- c) It complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features;*
- d) The use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the local area generally;*
- e) It incorporates a high standard of landscaping where this would add to the quality of the design and siting;*
- f) It maximises opportunities for the conservation of energy and resources through design, layout, orientation and construction in line with Core Strategy Policy 24;*
- g) Where parking is to be provided charging points for electric or low emission vehicles are included where feasible;*

- h) *An appropriate Sustainable Drainage Scheme is submitted to and approved by the relevant Authority. Schemes should incorporate wildlife areas, ponds, swales and permeable paving where appropriate;*
- i) *It maximises natural surveillance and incorporates the principles of Secured by Design and has considered the incorporation of fire safety measures.*

In exceptional circumstances where outstanding, innovative design is demonstrated (particularly where high levels of sustainability are an integral feature), applications will be considered favourably, even where this may result in some limited conflict with the above criteria

- 5.10 As previously mentioned, within the OR, the Council asserts that the proposal conflicts with Criterion C stating;

“By virtue of their length and height, unsympathetic construction materials, urban appearance and siting immediately adjacent to the highway boundary, the gate and means of enclosure would appear as a stark, incongruous and utilitarian feature within an otherwise rural landscape setting and would fail to retain, enhance, complement or protect the surrounding area and countryside. The proposals harm would further be exasperated by not being physically attached to any built form, appearing isolated”

- 5.11 The Council's RfR cites height and length as a concern; the submitted plans demonstrate that the gates and flanking walls are modest in height in comparison to the completed development and do not present an unduly dominant or overbearing form, when viewed from Breach Lane as shown in Figure 3.1.2. The walls taper away from the gate piers and incorporate planting to soften their visual impact. The Council's Supplementary Planning Document (SPD), Good Design Guide encourages boundary treatments that are typical of the Borough. The proposed entrance is entirely consistent with this objective. The OR reflects this SPD, and states;

“Where formal access structures have been constructed these are set back from the highway, open in nature, short in length, low level in height and constructed in timber creating a reasonable rural character to the area. As a result, these are sensitive to and respect, conserve and complement the character and appearance of the area.”

- 5.12 Appendix A demonstrates that the Council has previously accepted comparable and more visually prominent gates consisting of stone pillars, walls and varied forms of boundary treatments. The Council’s assessment fails to properly acknowledge the varied and mixed character of these within the locality and wider countryside. The proposed gates and means of enclosure would utilise materials consistent with those previously approved as part of the wider development, ensuring a cohesive and sympathetic appearance across the site.
- 5.13 Furthermore, no objection was raised by any landscape or urban design consultee, and no technical landscape assessment was undertaken by the Council to substantiate the claimed “significant adverse impact”. The Council’s conclusion appears to be based primarily on subjective opinion rather than demonstrable evidence of visual harm.
- 5.14 The RfR also relies on Paragraph 140 of NPPF, which directs that the quality of approved development should not be materially diminished between permission and completion. The extant permission contained no gate or formal entrance structure; therefore, there is no approved feature against which a degradation in quality can be measured. The Appellant considers that the proposed entrance structure [which is set back over 6m from Breach Lane] would represent a positive enhancement to the approved development, providing a more coherent and visually finished appearance to the site frontage. In addition, the Local Highway Authority (LHA) were consulted as part of the application and raised no technical objection, demonstrating the proposal is acceptable in terms of highways safety.
- 5.15 The OR also cites Policy DM4 in support of the RfR. Policy DM4 states;

“To protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.”

- 5.16 The intrinsic rural qualities that Policy DM4 seeks to protect — open character, landscape character, beauty and natural value — are not present at or immediately adjacent to this site in any material degree. It is important to understand the context of the appeal site. The site occupies a contained edge-of-settlement location influenced by existing residential development, the A47, and varied forms of boundary treatment, rather than an exposed or sensitive open countryside setting. The site is physically enclosed to the south by the A47, which forms a strong settlement edge separating the site from the wider countryside.
- 5.17 Context can be drawn from a planning appeal decision³ where the Inspector found that land outside the settlement boundary was visually contained and; *“effectively cut-off from the surrounding countryside. Consequently, the site has a clearer affinity with the village than with the open countryside beyond”*.
- 5.18 At Paragraph 12 the inspector states;
- “The Council’s reason for refusal links the location, outside the settlement boundary, with safeguarding the open countryside from unjustified development and its appeal statement also refers to the requirement in the Framework to recognise the intrinsic character and beauty of the countryside. However, the Framework itself does not define the countryside in terms of settlement boundaries, which are not mentioned within its 75 pages.”*
- 5.19 The Council’s reliance on Policy DM4 pertaining to the appeal site and the countryside designation as a basis for refusing the proposed gates and means of enclosure ancillary to an already-permitted residential development, is disproportionate. It bears repeating that this is a particularly mean and harsh refusal.
- 5.20 The Council’s suggestion that the site is marooned from settlement, is odd. The site is very much part of the settlement, when experienced on the ground and via the map:

³ APP/P1615/W/18/3213122

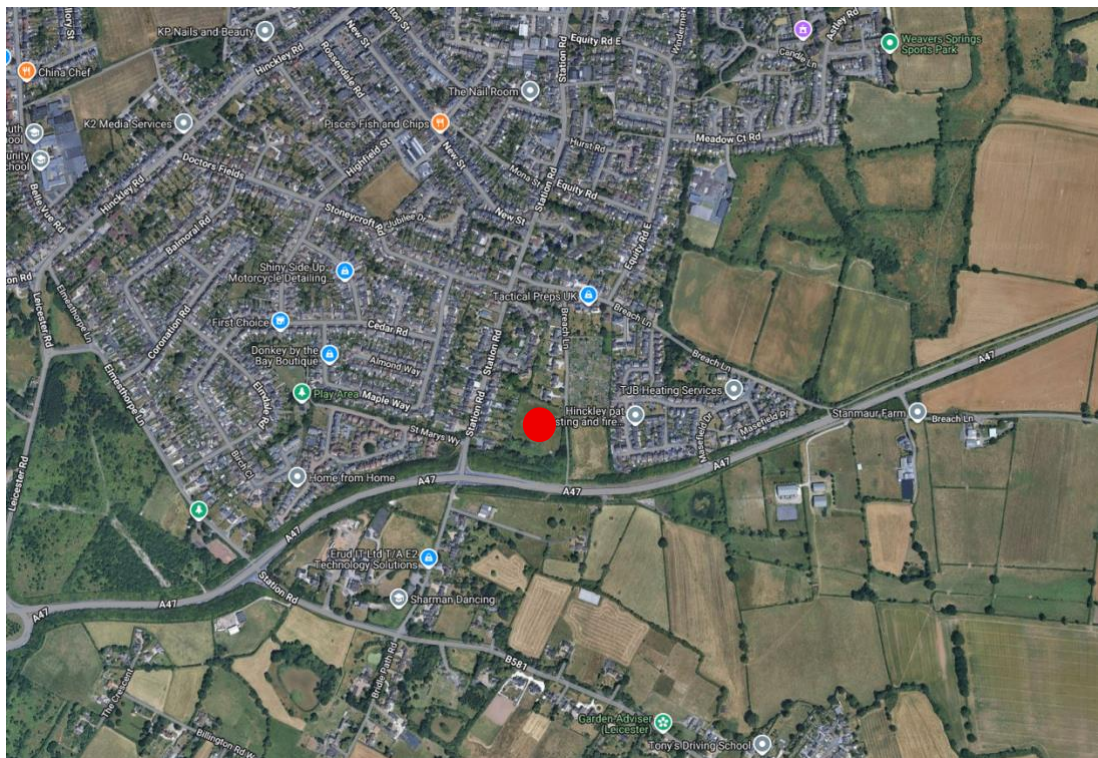


Figure 5.21.1 Appeal site depicted by red dot

- 5.21 The erection of gates and means of enclosure would represent a natural and expected feature of an edge of settlement, private residential development of this scale. Any impact upon the wider countryside would be negligible due to the contained nature of the site and its relationship with existing development and the A47 corridor. The gates would contribute to improved safety within the development by encouraging slower vehicle speeds and preventing unauthorised access, whilst also enhancing privacy and reinforcing a sense of community.
- 5.22 The Council states that *“the security benefits raised are not public benefits, but private benefits to the occupants of the dwelling(s).”* The concept of 'public benefit' in planning terms encompasses the wellbeing of all members of the community, including the owners and occupiers of the dwellings within the development. The Council cannot be 'selective' on who benefits from the proposal, nor who forms part of the public, community or stakeholders.

- 5.23 The Appellant believes there is clear policy compliance and any harm identified by the council did not meet the threshold to justify outright refusal having regard to the presumption in favour of sustainable development at paragraph 11 of the NPPF. Even if the Inspector were to identify some degree of harm, substantial weight must be afforded to the complete absence of objection at a public, professional and technical level.
- 5.24 Finally, the OR acknowledges that the requirement for new soft landscaping details could be conditioned. It is well established through the NPPF, that where a condition can be imposed as a viable means of resolving a concern, refusal on that ground cannot be justified. The Inspector is invited to impose an appropriate landscaping condition should the appeal be allowed.
- 5.25 On this basis, the Appellant maintains that there is clear policy compliance, that no meaningful harm arises, and that the planning balance - when fairly and properly applied - weighs decisively in favour of allowing this appeal. Without prejudice to that primary position, the Inspector's attention is drawn to Appendix A, which illustrates a number of gates and means of enclosure in the immediate locality of comparable, and in some cases greater, prominence and visual weight. The existence of these structures, which have either been permitted or erected without objection in the surrounding area, is a material consideration and it would be inconsistent to refuse the proposed gate on character and appearance grounds whilst comparable structures are accepted.

6.0 Conclusion

- 6.1 The proposal seeks planning permission for; Erection of gates and associated enclosure. The applicant acknowledges the Council's position concerning planning conditions and welcome discussion around agreement of the necessary controls.
- 6.2 As mentioned in the Supporting Statement submitted as part of the application, the developer has a strong track record of delivering high-quality schemes, and the variations to

the respective conditions represent a minor and logical final element to complete the approved development.

- 6.3 At the heart of the balancing exercise to be undertaken by decision takers is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise. Section 70(2) of the Town and Country Planning Act 1990 reinforces that due regard must be paid to such considerations.
- 6.4 **Whilst the development plan is the starting point, it is not the end point.** Policy supports the principle of development as underpinned by planning appeal precedent and Case Law handed down by the courts, with demonstrable social and environmental benefits accruing.
- 6.5 Whilst this statement has clearly justified engagement of paragraph 11(d), this appeal signifies that if the Council were to disagree, that planning permission should still be granted given the material factors in play. There is no reason to undermine the principle of development established on site in light of the material planning considerations engaged by the proposal.
- 6.6 The proposal is a wholly deliverable prospect, making effective use of land, without undue harms. The proposed gates and enclosure will have no adverse impact on the character or appearance of the surrounding area or countryside and will equally be a public benefit to the occupants.
- 6.7 The Appellant therefore respectfully invites the Inspector to allow this appeal.

7.0 Appendix A



Figure 7.0.1 The Pingle, Ashby Rd, Barwell, Leicester LE9 8HW



Figure 7.0.2 97 Bosworth Road, Wellsborough, Nuneaton, CV13 6PB



Figure 7.0.3 Stoke Lodge, Hinckley Road, Stoke Golding, CV13 6HT



Figure 7.0.4 101 Hinckley Road, Stoke Golding, CV13 6HT



Figure 7.0.5 Adjacent street scene to appeal site [Breach Lane, Earl Shilton, LE9 7FB]



Figure 7.0.6 Adjacent street scene to appeal site [Breach Lane, Earl Shilton, LE9 7FB]



Figure 7.0.7 161 Station Road, Earl Shilton, LE9 7GF