

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Final Comments prepared for Mr Tony Coombs against the refusal of application 25/01029/PIP by Hinckley & Bosworth Borough Council for Permission in Principle for the erection of a single C3 self-build dwelling, associated amenity space and parking Paddock House, Ashby Road, Stapleton, Leicestershire, LE9 8JF.

Application 25/01029/PIP was received by the LPA 20th October 2025 and refused by notice dated 24th November 2025.

July 2026

PINS 6010066

Simon Cheshire BA(Hons) DipTP MRTPI

1. As noted within the Grounds of Appeal, currently the policies the LPA relies upon regarding the supply of housing and exiting settlement boundaries are contained within 2009 Core Strategy and the Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016), where the LPA are unable to demonstrate a 5YHLS, which is one of the key circumstances for the engagement of the 'tilted' balance as per Paragraph 11(d).

2. In addition, and in relation to the Emerging Local Plan for 2024-2045, Hinckley & Bosworth Borough Council is proposing to publish the Regulation 19 (Pre-submission) Local Plan for public consultation summer 2026. Given its early stage of preparation, the Emerging Local Plan is attributed no weight when determining this appeal.

3. As such the appeal allowed via PINS reference 6004626 59 Kennel Lane, Witherley, Leicestershire CV9 3LJ, submitted as Appendix 5 of the current Grounds of Appeal on the 22nd June 2026, represents the most up to date 5YHLS and Local Plan position related to the supply of housing across the Borough.

4. The soon to expire (December 2026) current Core Strategy that was adopted in 2009 is crucially silent on the provision of self-build and custom housing. Due to the changes in National Policy and the Council's requirement to take on a portion of Leicester City Council's unmet housing need, the LP does not meet its identified housing requirement or policy provision for specialist self-build / custom housing, where this failure will not be addressed until the new Local Plan is adopted, which is unlikely to occur before 2028.

5. Given the above, there is no dispute between the two main parties that the Council cannot demonstrate a five-year supply of deliverable housing land or maintain an up to date Self-Build Register as demonstrated by the Marrons self-build appraisal cited in Appendix 2 of the Grounds of Appeal related to the approval of a single self-build proposal also subject to Policy DM4 via application 24/01155/FUL. Where the reliance on the private car for access to shops, places of education and employment, doctors and other facilities would be no different for the residents of the appeal site and the existing residents of Stapleton.

6. The Framework accepts that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas such as in this case. In this policy context the appeal scheme represents an integrated and sustainable development in accordance with paragraphs 73 and 83 of the Framework that state:

"Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly."

And:

"To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby."

7. The Court of Appeal decision (**Corbett v Cornwall Council**) discusses the interpretation of 'immediately adjacent' in terms of proximity to existing or emerging settlement boundaries. Sir Keith Lindholm said the words 'immediately adjoining' in the context of policy should not be given an unduly prescriptive meaning'. He said that the words did not necessarily mean 'contiguous, or 'next to', or 'very near'.

8. The appeal site is immediately adjacent to the settlement boundary of Stapleton and therefore is “read” that it feels part of the village, albeit that it is outside the development boundary. The public house, church, village hall and bus stop (Timetable Appendix 1 of GoA) are within easy walking distance and as such, there are services and facilities in Stapleton that any new development would be capable of supporting, enhancing, and maintaining the vitality of. Therefore, the reliance on the private car for access to shops, places of education and employment, doctors and other facilities would be no different for the residents of the appeal site and the residents of existing housing in the village.

9. Although relatively infrequent, there is bus service that serves the village which would, alongside the option to cycle and the commonly used and locally considered safe footpath to the centre Barwell, provide genuine alternative means of travel for the future occupants of the development.

10. The scope of the considerations for permission in principle is limited to location, land use, and the amount of development. All other matters are considered as part of a subsequent technical details consent application if permission in principle is granted. An indicative layout was included at the pre-application stage as well as part of the PIP submission. However, this is clearly marked as indicative and therefore can only be considered as such.

11. Notwithstanding the above, the reason of refusal states:

“The proposal represents new residential development in the designated open countryside, which exacerbates ribbon development and results in significant and permanent harm to the rural character of the site, the surrounding area, and the intrinsic value, beauty, open character, and landscape character of the countryside, the Stoke Golding Rolling Farmland Landscape Character Area and the Earl Shilton North and Barwell West Landscape Sensitivity Area, to which the site positively contributes to. As a result, the scheme is not well designed and fails to reflect local design policies and government guidance on design as a matter of principle.” (My emphasis)

12. As noted above, the scope of the considerations for permission in principle is limited to location, land use, and the amount of development. As such the LPA cannot substantiate the claim *“the scheme is not well designed and fails to reflect local design policies and government guidance on design as a matter of principle.”* Furthermore, there is no compelling evidence provided by the LPA that it would not be possible to design a scheme which would wholly accord with LP Design policy given the response below from the pre-application enquiry:

“Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.

Policy DM10 of the Site Allocations and Development Management Policies (SADMP) requires development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, material and architectural features.

The proposed scheme takes the form of a courtyard design taking design influence from nearby ‘farmstead’ arrangements. The scale and form of the proposal is drawn from nearby High Barn and Paddock House, with a combination of single and two-storey buildings, wrapping around a central courtyard. The scale, massing and overall footprint would appear consistent with the surrounding development in terms of scale and massing and has been designed with the rural character of the site and equestrian use in mind. Although detailed

elevations and materials have not been submitted, it is considered that the layout is suitable for a development of this type, subject to other material considerations being considered, including visual impact upon the countryside and character of the area.”

13. Given the above, it is considered the appeal site is an existing linear feature in the built form along Ashby Road, and is clearly experienced and “read” as part of the village of Stapleton and will cohesively represent a further evolution of the historic built form.

14. On this basis, there is no reason to suggest that an appropriate layout, scale, and design could not be secured at the Technical Matters Stage, where the details would be capable of reflecting the surrounding context and built form and positively improving the character and appearance of the select part of Ashby Road. The limited geographic area would maintain the overall landscape character and would not result in a significant adverse effect, thereby according with criteria (i) of Policy DM4 and criteria (a) of Policy DM10.

The HBBC Self-Build Register

15. The LPA delegated report confirms the LPA cannot demonstrate and up to date self-build register and in this respect the *Right to Build Task Force Custom and Self-Build Planning Guidance PG3.3: NPPF and Right to Build legislation – Delivering appropriate permissions (January 2024 – Version 3)* states:

“Where there are no policies and/or LPAs are not meeting their duty in relation to provision of CSB plots, the fact of an application delivering CSB plots should be given significant weight in the planning balance. Where there are no planning harms, it is possible that meeting the LPA’s statutory duties will be sufficient to indicate an approval, even in the case of a minor departure in relation to a local policy.(My emphasis)

However, notwithstanding the above, where a council cannot demonstrate that plots are being secured there is an increased risk of approval by appeal and this should be considered in the context of the approach taken in terms of planning for sites and granting permissions. Availability of CSB plots should be a factor in the determination of the application and given significant weight in the planning balance.”(My emphasis)

16. The proposed appeal development is judged by the LPA to conflict with the development plan when considered as a whole. However, there are material considerations, notably the provisions of the Framework and Primary Legislation in the form of the HBBC Self-Build Register, which indicate that the decision should be taken other than in accordance with the development plan.

17. Since the end of Base Period 10 on the 30th October 2025, it is now agreed common ground that the shortfall rolled over from Base Period 10 has increased from 5 in Base Period 9 to 17 in Base Period 11, which when added to the required 10 plots that need to be approved during Base Period 11, gives a current and increasing year on year shortfall of 27 plots that need to be approved by 30th October 2026, or in 4 months’ time, and crucially this fact is not challenged or contested within the LPA Statement.

18. As noted within the Grounds of Appeal, the importance of such material considerations was demonstrated in relation the appeal decision that was allowed on the 4th July 2025 for the erection of a self-build dwelling, land between 118 and 124 Battram Road, Ellistown, Coalville, Leicestershire LE67 1GB included in Appendix 3, where in allowing the appeal the Inspector opined:

“16. It therefore follows that the appeal site would not provide a suitable location for the proposed dwelling having regard to the spatial strategy of the development plan, whether the site constitutes PDL or not and the accessibility of the site. As such, it would be contrary to Policies S2 and S3 of the LP, the aims of which I have outlined above.”

19. However, balanced against the above, the “Battram” Inspector concluded:

“17. It is common ground between the main parties that the Council has a significant unmet need for self-build and/or custom-build housing (SBCB housing), which is required by the Self-Build and Custom Housebuilding Act 2015 (as amended) (the Act). This is a matter of serious concern and the provision of housing in this respect should be attributed significant weight. Despite the proposal being for just a single dwelling and the Council advising of other applications currently being considered for SBCB housing, it would assist in reducing the Council’s deficit and would be secured by the UU submitted with this appeal.”

20. The “Battram” Inspector viewed the issue of the shortfall in the supply of self-build housing as a matter of serious concern, and that the provision of this type of specialist housing should be attributed significant weight. A signed and completed UU can be submitted as part of the Technical Matters Stage to secure this provision.

21. For the above reasons, it is considered the appeal site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development, with particular regard to its relationship to the existing settlement of Stapleton. In locational and sustainability terms, there is no insurmountable conflict with Policy DM4, that allows for development adjacent to the boundaries of existing settlements as cited in Appendix 1 to 5 where they would enhance or maintain the vitality of rural communities and where the development is proportionate in scale to the settlement and would conserve and enhance the landscape character, by respecting and reflecting the existing pattern, character, and appearance of its setting, thereby constituting sustainable development.

22. This conclusion on the application of Policy DM4 under such circumstances is reflected in the Kennel Lane Appeal decision included in Appendix 5 where at paragraph 13 the Inspector notes:

“National Planning Policy Framework (the Framework) and the National Design Guide (2020) (NDG) both advocate well-designed places that respond positively to prevailing character and setting. The building would be set back so as not to generate formal ribbon development.”

23. As noted above, whilst there would be a marginal degree of “urbanisation”, there is no reason to suggest that an appropriate layout, scale, and design could not be secured via suitable Design Code at the Technical Matters Stage.

Conclusion

24. The specific material considerations of this appeal clearly demonstrates the appeal proposal is situated directly adjacent to the settlement boundary of Stapleton and is within walking distance of the local amenities and bus stop and is sustainable in this respect. The evidence provided by Marrons in Appendix 2 of the Grounds of Appeal, demonstrates the Council has only permitted 16 self-build plots since 2016, an average of 2 per annum, and has yet to meet its statutory obligations in permitting sufficient plots to meet numbers of its register, within a 3 year period.

25. As a result, paragraph 11 d) (ii) fully applies and although there would be some limited harm arising from the “evolving changing appearance” of the appeal site, this could not be considered materially significant or detrimental in terms of the local context. Instead, it would be wholly consistent with the relatively recent residential planning history related this area of Ashby Road, including the residential conversion of the directly adjacent neighbouring properties from former agricultural buildings.

26. Based on the above, the adverse impacts of the appeal proposal do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole, particularly as the proposal is considered pass the test contained in Paragraph 11 d) (ii). Therefore, the appeal proposal does benefit from the presumption in favour of sustainable development where the proposal will contribute to reducing the current and increasing year on year shortfall of 27 self-build and custom plots within the Borough on a meaningful material basis, when weighed within the planning balance.

27. For the above reasons, it is considered that the appeal site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development, with particular regard to its relationship to the existing settlement. It therefore follows, there is no substantive conflict with Policies DM4, DM10 or DM17 of the soon to expire 2009 Core Strategy in December 2026. Collectively these policies and those equivalent within the Framework, allow for development adjacent to the boundaries of existing settlements where they would enhance or maintain the vitality of rural communities. Particularly where the development is proportionate in scale to the settlement, maintains or positively improves the settlement’s character, appearance and environmental quality, thereby conserving and enhancing the local landscape character, and respects and reflects the existing pattern, character, and appearance of the immediate setting.

28. The Framework and the National Design Guide (2020) (NDG) both advocate well-designed places that respond positively to prevailing character and setting. Consequently, the harm from any marginal conflict with the development plan would not significantly and demonstrably outweigh the benefits that would arise from the development, when assessed against the policies in the Framework as a whole.

29. Paragraphs 124 and 125 of the Framework state that planning policies and decisions should promote an effective use of land in meeting the need for specialist self-build homes required under the 2015 Act and accordingly, the specific material considerations and circumstances cited above, indicate the decision should be taken other than in accordance with the development plan, and the appeal can be respectfully allowed on this basis.