

Response to the Local Planning Authority's Statement of Case and Interested Party Representations

Appeal Ref: 6009914 | LPA Ref: 25/01130/PIP | Land West of Barton Road, Carlton, Leicestershire

This note responds to the matters raised in the Local Planning Authority's Statement of Case and the subsequent representations made by interested parties.

For ease of reference, the main points have been grouped under common headings where the Council and interested parties raise similar concerns. This avoids unnecessary repetition.

The Appellant's case remains as set out in the Statement of Case unless expressly clarified below.

1. Landscape and Visual Appraisal

Council's comment: The Council notes that the Landscape and Visual Appraisal submitted at Appendix F, together with the contextual plan at Appendix G, was not submitted with the original planning application. The Council considers the introduction of this material at appeal stage to amount to unreasonable behaviour.

Appellant's response: It is accepted that the Landscape and Visual Appraisal was prepared and submitted as part of the appeal and was not one of the documents accompanying the original planning application. We also accept that this could have been identified more clearly within the Statement of Case.

However, we do not agree that the submission of the LVA should, in itself, be characterised as unreasonable behaviour.

The first reason for refusal is substantially based upon landscape and visual matters. It alleges significant and permanent harm to the rural character of the site, the surrounding countryside and the Barton Village Farmlands Landscape Character Area. It also specifically refers to the visual prominence of development from Barton Road, Nailstone Road and Public Footpath S69.

The LVA was commissioned directly in response to those conclusions. It does not alter the application site, amend the red line boundary, increase the amount of development sought or introduce a different proposal. Its purpose is to provide a professional assessment of matters which the Council itself placed at the centre of the first reason for refusal.

The Planning Inspectorate's procedural guidance states that appeal submissions should not normally include new evidence or additional technical information which was not before the Local Planning Authority. It also identifies a possible costs consequence where evidence which could reasonably have been provided earlier is introduced at appeal. That wording does not amount to an absolute prohibition on appeal-stage evidence, nor does it follow that the submission of additional evidence automatically amounts to unreasonable behaviour.

It is also relevant that this is not an unusual approach in our recent experience of the appeal process.

A current appeal within Hinckley and Bosworth Borough, Appeal Ref. 6004496, relates to application 25/00775/OUT at 223A Main Street, Thornton. Landscape and visual effects formed an important part of the Council's refusal of that application. A Landscape and Visual Appraisal was subsequently submitted as part of the appeal rather than with the original planning application. In that appeal the Council has engaged with the content and conclusions of the LVA on their merits, including its assessment of landscape character, visibility and views from the National Forest Way. No equivalent procedural objection has been raised in the appeal material presently before us regarding the fact that the LVA was submitted at appeal stage.

We do not suggest that the circumstances of Appeal 6004496 determine how the present appeal should be dealt with. They do, however, provide relevant procedural context and reinforce our view that the submission of an LVA at appeal stage, particularly where it responds directly to landscape matters forming part of a reason for refusal, should not of itself be characterised as unreasonable.

More importantly, there is a straightforward way of dealing with the matter fairly in the present case.

The LVA was submitted openly with the appeal documentation and has been available to the Council throughout the appeal process. The Council itself confirms at paragraph 5.14 that, should the Inspector consider the document acceptable, it would be willing to provide further comments upon it.

The Appellant has no objection whatsoever to the Council being afforded a reasonable opportunity to do so. In our view, that provides a proportionate way forward: the Inspector has the benefit of professional landscape evidence on a matter central to the appeal, whilst the Council has a full opportunity to respond.

No procedural advantage is sought through its submission. The purpose of the LVA is simply to allow the landscape conclusions contained within the first reason for refusal to be properly considered.

The Appellant therefore respectfully asks that the LVA is accepted as part of the appeal material and afforded the weight considered appropriate by the Inspector.

Appendix G should be viewed in the same context. It is not an amended application plan and does not change the proposal. It was included as contextual material to assist in understanding the relationship between the site and the village edge.

2. Scope of Permission in Principle

Council's comment: The Council disagrees with the Appellant's interpretation of the scope of Permission in Principle and considers that landscape, design and accessibility issues can properly arise from the location, land use and amount of development.

Appellant's response: There is more agreement between the parties on this point than the Council's Statement may suggest.

The Appellant accepts that Permission in Principle must be determined in accordance with the Development Plan unless material considerations indicate otherwise. It is also accepted that landscape character, settlement form and accessibility can be relevant to the consideration of location, land use and amount.

The point being made is narrower.

Permission in Principle does not determine the final layout, appearance, landscaping, drainage or detailed access arrangements. Those matters remain for Technical Details Consent.

The Appellant's case is therefore not that design or landscape considerations are irrelevant. It is that a conclusion that the proposal is inherently incapable of being well designed should arise from something fundamental about the location, residential use or amount of development, rather than from assumptions about detailed matters which remain capable of resolution at the second stage.

The indicative plan demonstrates that up to nine dwellings can be accommodated on the land. The final arrangement, scale, appearance, boundary treatment and landscaping remain matters for detailed consideration.

Reference to the existing access permission was similarly included as factual context and not as an attempt to have detailed access arrangements determined through this appeal.

3. Countryside and Landscape Character

Council and interested parties' comments: The proposal would represent an uncontained extension into open countryside, harming the Barton Village Farmlands Landscape Character Area and extending Carlton beyond its established northern edge.

Appellant's response: It has always been accepted that residential development would result in a permanent change to this part of the agricultural field.

The disagreement concerns the degree of harm arising from that change.

The site immediately adjoins existing residential development to the south and faces established residential development at Northfields on the opposite side of Barton Road. It is therefore experienced in association with existing built form rather than as a detached parcel separated from Carlton.

The Council places considerable emphasis upon No. 21 Barton Road as forming a fixed and natural conclusion to the village. That is ultimately a matter of planning and landscape judgement.

The present-day context includes residential development on both sides of Barton Road and a variety of building forms, including the courtyard-style development immediately to the south and Northfields opposite.

The Appellant does not suggest that this places the appeal land within the settlement. The point is that the physical relationship between the site and Carlton is more nuanced than a description of unrestricted development extending into otherwise detached open countryside suggests.

The development would not materially reduce the separation between Carlton and Barton in the Beans or any other settlement. The effects identified are therefore principally upon the site and the immediate village edge.

Those effects should carry appropriate weight. What is not accepted is that they amount to the scale of significant and wider landscape harm alleged by the Council.

4. Northfields

Council and interested party comments: Northfields was granted as a rural exception scheme and is materially different from the appeal proposal.

Appellant's response: The different policy basis of the Northfields scheme is fully accepted.

It is not relied upon as establishing a planning precedent for market housing on the appeal site.

Its relevance is to the existing physical and visual context. The dwellings are there today, face the appeal land and form part of the way in which this section of Barton Road is experienced.

Their planning history does not remove them from the existing landscape baseline.

That is the limited point for which Northfields is relied upon.

5. Appendix G and Historic Settlement Edge

One interested party challenges the interpretation of the historic settlement edge illustrated at Appendix G.

For clarity, Appendix G was intended to provide contextual information. It was not intended to establish a formally defined historic settlement boundary and the Appellant's case does not depend upon the settlement edge following one precise historic line.

We are therefore content for Appendix G to be treated as contextual information and for the existing site circumstances to carry greater weight.

6. SHELAA

Council and Parish Council comments: The Council states that SHELAA inclusion should carry no positive weight and the Parish Council refers to land submitted through the SHELAA process not being selected for allocation.

Appellant's response: It is accepted that the SHELAA is an evidence-base document. It is not an allocation and does not establish that planning permission should be granted.

The reference in the Statement of Case was intended as plan-making context only.

7. Sustainability and Reference to the Site Not Being Isolated

Council's comment: The Council states that it has never described the appeal site as isolated and suggests that the Appellant has misunderstood the second reason for refusal.

Appellant's response: We are happy to clarify this point.

It is not suggested that the Council refused the application because it would constitute isolated homes in the countryside for the purposes of the relevant Framework policy.

Reference to the site not being isolated was used in its ordinary sense, describing its physical relationship with Carlton.

The site immediately adjoins the village and future residents would form part of that community. That remains relevant to the broader assessment of sustainability even though the specific national policy concerning isolated homes did not form part of the refusal.

The substantive disagreement remains whether the travel choices available are so limited that the development should attract the significant environmental harm attributed to it by the Council.

8. Transport Policy Reference

The Council correctly identifies that the Statement of Case attributed the national "severe" highway test to the incorrect paragraph of the December 2024 Framework.

For the purposes of correcting the Statement of Case as originally drafted, the correct reference was paragraph 116 of the December 2024 Framework, which set out that development should only be prevented or refused on highway grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe.

The implications of the revised August 2026 Framework are addressed separately in response to the Inspectorate's invitation.

The point being made related to that national policy test concerning unacceptable highway safety impacts and severe residual cumulative impacts upon the road network.

It is accepted that the Council's second reason for refusal is not principally a highway safety objection. It concerns transport sustainability and accessibility and is addressed on that basis below.

9. Rural Accessibility

Council and interested party comments: Carlton has limited services, routes to surrounding settlements are generally unlit and lack dedicated walking and cycling infrastructure, and future residents would therefore be dependent upon private vehicles.

Appellant's response: It is accepted that Carlton is a rural settlement and that future residents would use private cars for a proportion of journeys. We have not suggested otherwise.

The question is whether this leads to the stronger conclusion that the site is so poorly connected that nine dwellings should attract significant environmental harm in the planning balance.

In our view that conclusion goes too far.

The site immediately adjoins Carlton rather than being separated from the settlement. There is footway provision into the village from the southern end of the site. Market Bosworth lies within a relatively short distance and provides the higher-order services which Carlton itself does not contain.

There is also a conventional bus service, FoxConnect, cycling opportunities and a wider public rights of way network.

None of those factors is suggested to provide an urban level of accessibility. Taken together, however, they demonstrate that the private car is not the only travel option available.

The assessment should therefore be proportionate to the rural context and should consider the actual range of choices available rather than expecting Carlton to perform in the same way as a larger settlement.

10. FoxConnect

Council and interested party comments: FoxConnect is demand responsive rather than a scheduled service and journeys must be booked in advance.

Appellant's response: That is accepted. FoxConnect is not equivalent to a high-frequency conventional bus service and has not been presented as such.

However, advance booking is an inherent feature of demand-responsive public transport and does not mean that the service has no relevance.

Market Bosworth is particularly relevant as the closest higher-order settlement offering a broad range of day-to-day facilities.

Our position remains a modest one: FoxConnect does not make Carlton highly accessible, but it does provide an additional public transport option and forms part of the overall sustainability picture.

11. Bus, Walking and Cycling

The limited frequency of the conventional LC12 bus service is acknowledged and the Appellant does not place substantial reliance upon that service in isolation.

Likewise, the rural rights of way and cycle network should not be presented as equivalent to an urban pedestrian or cycle network.

However, these are still genuine travel options.

Market Bosworth lies approximately 1.5–2 miles from the site. That is a realistic cycling distance for some journeys, particularly by e-bike, although plainly it will not suit all residents or every journey.

The public rights of way network likewise provides useful pedestrian connectivity, although it is accepted that an unsurfaced rural footpath will not be appropriate for every user in every weather condition.

These limitations affect the weight to be given to those options. They do not mean that the options should be ignored altogether.

12. The Gate Hangs Well

The Council and interested parties are correct that the retail element at The Gate Hangs Well is not a conventional village convenience store.

The Appellant does not seek to suggest otherwise.

The establishment nevertheless remains a pub, café and restaurant within Carlton and contributes to village life and rural vitality.

It should therefore be treated as a local facility, but no substantial reliance is placed upon it as a source of everyday grocery provision.

13. Nailstone Appeal

The Council relies upon the dismissed appeal at Land adjacent to 87 Barton Lane, Nailstone.

There are important differences between that site and the present appeal.

The Nailstone site was approximately 0.5km outside the village. The Inspector recorded that pedestrians would need to walk within Barton Lane and that routes towards services involved crossing the A447. The Inspector also expressly found the proposed dwellings to be isolated for the purposes of national policy.

The present appeal site immediately adjoins Carlton and the Council itself confirms that it does not regard this proposal as isolated.

The Nailstone decision therefore demonstrates the need for a site-specific assessment rather than establishing that the same conclusions necessarily follow here.

14. Stapleton Appeal

The recently dismissed Paddock House appeal is similarly distinguishable.

That site fronted a busy A-road with a 40mph speed limit, was unlit and had no footway outside the appeal site. The nearest bus stop was approximately 600 metres away and the first section of the route required use of a grass verge alongside relatively fast-moving traffic.

In landscape terms, the Inspector found that the site formed a characteristic gap between dispersed rural dwellings and was visibly separate from the settlement.

Those circumstances are different from a site which immediately adjoins the built edge of Carlton and faces further residential development on the opposite side of Barton Road.

The decision is relevant, but primarily as another example of why accessibility and landscape effects need to be considered on their individual facts.

15. Ratby and Barwell Appeals

It is accepted that the Ratby and Barwell appeals concerned larger developments and settlements with a greater range of facilities than Carlton.

They were not cited on the basis that they are identical to this proposal.

Their relevance is to the approach taken to planning judgement, countryside policy conflict and the planning balance within the Borough.

16. Emerging Regulation 19 Local Plan

The publication of the Regulation 19 Local Plan is acknowledged as a material development since the appeal was submitted.

The Plan remains at the pre-submission consultation stage and has not yet been independently examined or adopted.

The weight to be attached to its policies is therefore a matter for the Inspector, having regard to the stage reached and the other relevant considerations.

The appeal should not be approached as though the Regulation 19 Plan already forms part of the adopted Development Plan.

The description of the appeal as “opportunistic” does not assist the planning assessment. The appeal follows the refusal of a planning application and represents the exercise of the Appellant's statutory right of appeal.

17. Five-Year Housing Land Supply

The Parish Council refers to a housing land supply figure of 5.26 years, drawn from the draft 5YHLS Statement for 1 April 2026 to 31 March 2031 published alongside the Regulation 19 Local Plan.

That draft statement has since been superseded by the Council's adopted Five Year Housing Land Supply Statement for the period 1 April 2026 to 31 March 2031. Table 8 identifies a total supply of 3,347 dwellings. Table 9 identifies a five-year requirement of 3,735 dwellings, reflecting 747 dwellings per annum including the 5% buffer, and a deficit of 388 dwellings. On those figures, the Council has approximately 4.48 years' housing land supply and cannot demonstrate a five-year supply for the current period.

There are reasons to approach the detailed delivery assumptions within the new statement with some care. Of the 3,347 dwellings included within the supply, 2,867 are expected to be delivered from large sites. The supply also includes 880 dwellings from Category B sites.

There is also a notable concentration of anticipated delivery around the Normandy Way/Hinckley North area, including a significant contribution from the wider Hinckley North development.

Large strategic sites can take considerable time to progress and their anticipated delivery rates require appropriate supporting evidence.

In the recent Richborough appeal at Land South of Kings Newton Lane, Melbourne (APP/F1040/W/25/3368728), the Inspector examined South Derbyshire District Council's reliance upon delivery from larger sites, including Drakelow Power Station. Where sufficient evidence was not available to demonstrate that Category B dwellings would be delivered within the relevant period, those dwellings were removed from the supply. The Inspector ultimately concluded that the Council could not demonstrate a Framework-compliant five-year housing land supply.

18. Public Benefits

The Appellant does not seek to overstate the benefits of nine dwellings.

Nevertheless, the proposal would provide additional housing, generate construction activity and future household expenditure, and deliver the statutory biodiversity net gain applicable to the development.

Additional residents can also provide some support to existing rural services within Carlton and nearby Market Bosworth.

Those benefits are necessarily proportionate to a scheme of nine dwellings, but they are real benefits and should be included in the planning balance.

19. Concern Regarding Future Development

Some interested parties raise concern that allowing this appeal could encourage similar applications and lead to piecemeal erosion of the countryside.

Each planning application and appeal must be determined on its own circumstances.

Allowing development on this site, if the Inspector finds it acceptable having regard to its specific settlement relationship, landscape effects and accessibility, would not establish that unrelated countryside sites should also be granted permission.

20. Revised National Planning Policy Framework

A revised National Planning Policy Framework has been published since the Council's decision, the Appellant's Statement of Case and the subsequent representations were prepared.

The revised Framework is therefore a material consideration in the determination of this appeal.

The Appellant is conscious that these comments should respond to matters already raised rather than be used to introduce a new case.

Accordingly, rather than seeking to address the revised Framework substantively within this response, the Appellant would be grateful if the Planning Inspectorate could confirm whether the main parties will be invited to provide short, focused written comments on any implications of the revised Framework for the determination of the appeal.

Any such comments could be confined solely to matters arising from the revised national policy and would not repeat the wider cases already before the Inspector.

21. Overall Planning Balance and Conclusion

The Council and interested parties raise matters which require proper planning judgement. However, the Appellant considers that the degree of harm attributed to those matters remains overstated.

There is accepted conflict with the adopted spatial strategy because the site lies outside the settlement boundary. Development would also result in a permanent change to part of an agricultural field.

Neither point is disputed. The issue is the significance of those effects.

The appeal site immediately adjoins the existing built form of Carlton and faces residential development across Barton Road. It would not materially diminish the separation between settlements and is not detached from the existing village.

The final form, landscaping and detailed design of the development remain capable of careful resolution through Technical Details Consent.

Carlton is a rural settlement with limited services and private vehicle use would undoubtedly form part of future travel patterns. However, there are alternative travel opportunities through conventional public transport, FoxConnect, walking and cycling, together with the close relationship with Market Bosworth.

The LVA provides professional evidence against which the substantial landscape conclusions contained within the first refusal reason can be assessed. In our view, the proportionate approach is for that evidence to be considered, with the Council afforded an opportunity to comment if the Inspector considers this necessary.

The emerging Local Plan, revised housing land supply information and revised National Planning Policy Framework are subsequent developments which should be given the weight appropriate to their status at the date the appeal is determined.

Having considered the Council's Statement and the interested party representations, the Appellant maintains that the adverse effects of the proposal have been overstated and do not justify refusal when the proposal is considered as a whole.

For those reasons, it is respectfully requested that the appeal is allowed and Permission in Principle granted for up to nine dwellings at Land West of Barton Road, Carlton.