

**Appeal by Richborough, Clive Vero,
Geoffrey Malcolm Vero, Kathleen Ann
Sheppard & Leslie Alan James**

Appeal against the refusal of outline planning permission
by Hinckley and Bosworth Borough Council for
application 24/01079/OUT

*"Outline planning application for up to 126 dwellings (all
matters reserved except access)"*

Land North of Station Road, Market Bosworth

Hearing Statement of Case

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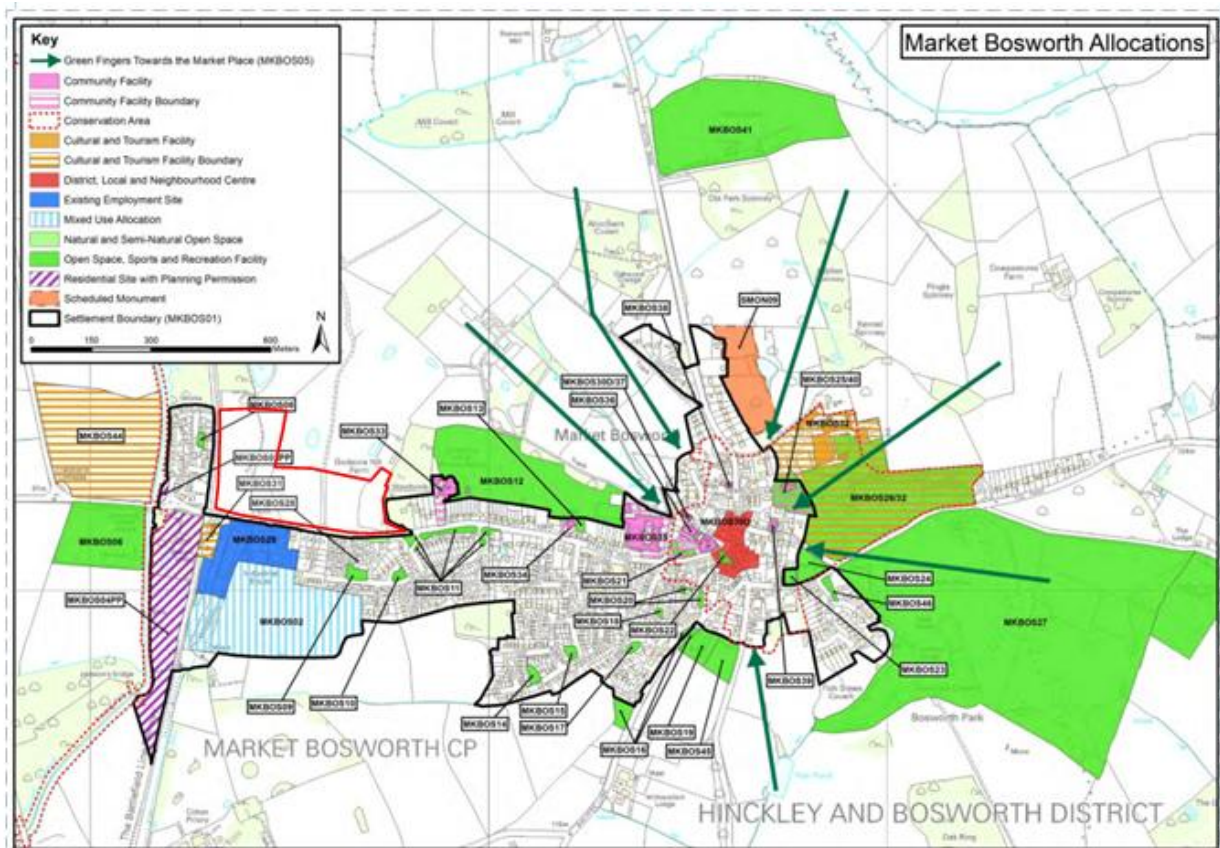
1. Introduction

- 1.1. This Hearing Statement of Case is submitted by Richborough, Clive Vero, Geoffrey Malcolm Vero, Kathleen Ann Sheppard & Leslie Alan James ('the Appellant') and relates to an appeal against the decision by Hinckley and Bosworth Borough Council ('HBBC' or 'the Council') to refuse an outline planning application (Ref: 24/01079/OUT) for the residential development of Land North of Station Road, Market Bosworth, Nuneaton, Leicestershire ("the appeal site").
- 1.2. The outline planning application ("the application") was submitted in November 2024 and sought the development for the erection of up to 126 dwellings, with associated access, landscaping, open space, and drainage infrastructure (all matters reserved other than access).
- 1.3. The site comprises 7.964 ha of land currently in agricultural use to the west of Market Bosworth. The appeal site is shown on the Site Location Plan (**CD1.02**).
- 1.4. Following consideration of the application, Officers recommended its approval (Committee Report **CD4.01**), however the Planning Committee resolved to refuse the application. The Decision Notice was issued on the 15th August 2025 (**CD4.04**) and sets out the following reasons for refusal:
 - 1 The proposal represents new development in the designated open countryside that results in very significant permanent harm to the character of the site, Important View 1, Important Vista I, the surrounding area, and the intrinsic value, beauty, open character, and landscape character of the designated open countryside. The proposal is therefore contrary to, and in conflict with, Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policies CE1, CE3, and CE5 of the Market Bosworth Neighbourhood Plan (2025), and Key Policy Paragraphs 129 and 135 of the National Planning Policy Framework (2024). This harm significantly and demonstrably outweighs the potential benefits of the scheme when assessed against the Framework as a whole.
 - 2 The Applicant has not entered into a Section 106 Agreement that secures the provision of planning obligations for the delivery of affordable housing and public open space, and planning contributions towards highways, health, education, waste services and libraries. As such, the application fails to make the necessary, fair, and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of the development on community services and facilities. Therefore, the application is contrary to, and in conflict with Policy DM3 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Policy 19 of the adopted Core Strategy (2009).
- 1.5. The Hearing Statement addresses the background to the development of the Appeal proposal, including the background to the planning application, identifies the planning policy context, and outlines why the Appeal should be allowed.

2. The Appeal Site and Surroundings

Appeal Site and Surrounding Context

- 2.1. The site extends to 7.964 hectares and comprises agricultural land located to the west of Market Bosworth, north of Station Road. The appeal site is shown on the Site Location Plan (CD1.02).
- 2.2. The southern boundary of the site is defined by Station Road and existing residential and employment uses lie to the south of Station Road. The western part of the site is defined by the railway line with residential development beyond. Kyngs Golf Course and Country Club lies to the north of the site; whilst the Golf Course and club is not in active use, this land has recently received planning permission for a new club house, holiday chalets and extensive carparking and more recently for a 50x room golf and leisure accommodation facility. The implementation of this scheme will create built form to the north of the site.
- 2.3. Vehicular access to the site is currently achieved via an existing access from Station Road which is shared by the neighbouring golf club to the north of the site. A second access to the west of the site provides access from Station Road to a property to the north known as The Stables
- 2.4. The site is located approximately 150m from the nearest designated heritage asset, the Ashby de la Zouch Canal Conservation Area. A number of Listed Buildings are located in the Market Bosworth Conservation Area, which is approx. 750m to the east of the site. Due to intervening built form and screening, the site is not considered to play a demonstrable role in the significance or setting of any designated heritage assets.
- 2.5. The site is not subject to any statutory environmental designations. An ecology survey has identified that the majority of habitats onsite are generally of limited botanical interest and are of poor species diversity.
- 2.6. The Flood Risk Map for planning shows the site as lying within Flood Zone 1 (Low Probability of Flooding from rivers or sea). A localised area of low-risk surface water flooding affects the south west of the site, though as demonstrated in the accompanying drainage strategy, this can be mitigated with standard on site sustainable drainage management systems.
- 2.7. The site is located outside, but immediately adjacent to, the adopted settlement boundary of Market Bosworth, as illustrated overleaf at Figure 1.
- 2.8. Market Bosworth is identified as a 'Key Rural Centre' as set out in Policy 7 of the HBBC Core Strategy (2009). The Local Plan defines Key Rural Centres, such as Market Bosworth, as providing a localised provision of facilities with access by foot, bike and local bus and can minimise car journeys not only for those people who are living in the Key Rural Centres, but also the rural villages and hamlets surrounding these centres.



*Figure 1 : Market Bosworth –Site Allocations and Development Management Policies DPD (2016)
Inset Policies Map (with Appeal Site outlined in red)*

- 2.9. Market Bosworth has a good range of services and facilities as well as good sustainable transport links. The site is well located close to the key services and facilities of the town, employment and local bus stops within Market Bosworth. Services and facilities within the town centre are within walking distance of the site (approximately 800m east along Station Road). St Peter's CE Primary Academy is approximately 400m from the centre of the site. Station Road Industrial Estate is immediately south of the site, providing employment opportunities within walking distance. Hourly bus services operate between Market Bosworth and Leicester providing regular access to wider employment and retail opportunities.
- 2.10. The Council recognise that Market Bosworth is a sustainable location and is a focus for growth in the emerging plan.
- 2.11. The Council does not object to the proposals on from a locational sustainability perspective and no objection has been raised by the Local Highways Authority in respect of these matters.

3. Planning History

- 3.1. There have been a number of previous planning applications by various applicants on various parts of the application site. Those of relevance to this application are discussed below.
- 3.2. The first (ref: 13/00520/FUL) comprised a full application for the erection of 65 dwellings and associated works including 2 no. balancing ponds, formal play area space and public open space, by applicant Charles Church. The application site comprised only part of the current appeal site (land to the east of the Wharf Farm track to land to west of the golf club access road). The application was recommended for approval by Officers but refused by Members (relevant documents including the Site Layout, Officers Report and Decision Notice are provided at **CD6.01**). The decision was subject to an appeal which was withdrawn on 22 August 2014.
- 3.3. In July 2014, Charles Church submitted a revised, full application (ref: 14/00674/FUL) for the erection of 64 dwellings and associated works including 2 no. balancing ponds, formal play area space and public open space (revised proposal). The scheme was again supported by Officers and reported to Members of the Planning Committee on 19th August 2014 with a recommendation for approval on the basis the Council could not demonstrate a five year housing land supply. Members resolved to approve the resubmitted application subject to the completion of a Planning Obligation (prompting the withdrawal of the appeal referred to above). However, Officers re-reported the application to the Council's Planning Committee on 5th March 2015, advising Members that the Planning Obligation had not yet been completed, the Council was now able to demonstrate a five year supply and that the emerging Neighbourhood Plan should be afforded substantial weight. Accordingly, Officers revised their recommendation to one of refusal, which Members accepted. That decision was not subject to an appeal. The Council's decision and associated documents are provided at **CD6.02**.
- 3.4. A further outline application, with an amended site shifted slightly eastwards, for 63 dwellings was submitted in September 2020 (ref: 20/01021/OUT), now by Richborough (**Site Layout CD6.03**). Again, despite an Officers recommendation for approval, the application was overturned by Members at Committee and refused in June 2021 (**CD6.03a-b**). The appeal was later dismissed at appeal in February 2022 (Ref: APP/K2420/W/21/3279808) (**CD6.03c**).
- 3.5. An outline application for residential development for up to 105 dwellings, public open space and associated infrastructure works (21/00970/OUT) was submitted in August 2021 on the western parcel of the appeal site by Ainscough Strategic Land (**CD6.04**). This application was withdrawn in March 2022.
- 3.6. It should also be noted that land immediately north of the site (Kyngs Golf and Country Club) has been granted planning permission across a number of consents, which most notably includes provision of a golf course and ancillary facilities including a club house via planning application 98/00963/OUT, provision of a multi-purpose golf clubhouse via planning application 19/01437/FUL and a 50-room golf and leisure accommodation facility via 24/00019/FUL. The Council consider that none of the above planning permissions have been implemented to date albeit that the most recent permission granted in 2024 remains extant and capable of being implemented. Associated documents are provided at **CD6.05**. The approved development is also illustrated on the Appeal Application Parameter Plan (**CD2.10**) and Illustrative Masterplan (**CD2.12**).

- 3.7. In addition to the above, immediately opposite the site, on land south of Station Road, there is a resolution to grant consent for 135 dwellings and 0.55ha of employment uses for Miller Homes (24/00560/HYB). The site is allocated in the SADMP and the MBNP. Associated documents are provided at **CD6.06**.

4. The Appeal Scheme

- 4.1. The development proposals are for a landscape-led scheme of up to 126 high-quality homes, including 50 affordable homes, with associated parking, infrastructure works and amenity space. The proposal includes significant levels of high quality public open space.
- 4.2. The development proposals seek to address landscape and visual concerns from previous planning applications on the eastern part of the site. The application site now forms both the previous site (SHLAA site AS392), as well as land to the west (AS1050), with the expanded site now enabling built development to be contained to the less visible north and western extents of the site, where much of the scheme will be screened and contained by the surrounding existing vegetation. There will be no built form on the area to the east of the access to the golf club and instead it will be a community park with play spaces, new footpaths and biodiversity enhancements, as well as providing open views across the eastern parcel towards the countryside to the north.
- 4.3. In addition to this, the development is set back from Station Road across both eastern and western land parcels, retaining and protecting views across to the upper slopes and wooded area to the east. The open space provided alongside Station Road will retain the parkland character with open views across areas of grassland and specimen trees. This will also create elevated views across the wider landscape to the north from the hillside to the east of the site. The publicly open space includes the provision of play areas, a community orchard, and opportunities for biodiversity enhancements as part of marginal planting in attenuation features and wildflower meadows and grasslands. This layout ensures that the important views and public footpath (S70/1) have been retained.
- 4.4. The illustrative masterplan (**CD2.12**) also demonstrates the following key elements of the scheme:
 - Up to 126 dwellings, including a mixture of dwelling types and sizes, ranging from bungalows to family homes;
 - Including up to 50 affordable homes (40% of total);
 - Vehicular and pedestrian access onto Station Road;
 - Retained access to Golf Course;
 - Policy compliant housing mix and parking provision;
 - Far reaching views across the site to the wider countryside to the north and wooded backdrop from station road have been retained;
 - An exceedance of public open space requirements (Inc SUDS) providing 4.33 hectares compared with the 0.785 hectares prescribed by emerging policy PMD05;
 - Comprehensive new green infrastructure, policy compliant, founded upon the retention and enhancement of landscape features including circular walks, nature trails, children's natural play trails and a range of equipped play areas, amenity space and area of biodiversity enhancement;
 - A community orchard and amenity space that will act as a social meeting place for new and existing residents;
 - High quality street hierarchy and street trees;
 - Wildflower planting and natural grasslands to promote biodiversity and habitat creation; and
 - Sensitive edge designs to aid a positive relationship with landscaped context to boundaries.

- 4.5. The application was made on 21st November 2024 and validated on 26th November 2024.
- 4.6. The application was supported by a comprehensive suite of technical reports (CD1.01-CD1.23). These were supplemented by various documents (CD2.01-CD2.52) provided at the post submission stage in response to matters raised by either statutory consultees or Officers.
- 4.7. At the time of the determination there was no outstanding request for additional information.
- 4.8. In summary, the appeal scheme has sought to address key concerns arising from previous planning applications and appeal on the eastern part of the site. A common concern raised by the Local Planning Authority and Parish Council in relation to previous applications was impact of development on important views/vistas and specifically to views to the higher ground. As aforementioned, the appeal site now forms both the previous eastern land parcel, as well as land to the west, previously submitted for an outline application up to 105 dwellings by Ainscough Strategic Land, and later withdrawn. This has enabled views to the higher ground from Station Road and surrounding areas to be retained.
- 4.9. The submitted Landscape and Visual Impact Assessment (CD1.17) and Landscape Masterplan (CD1.18) were assessed by LUC, the Councils advisors, with a response provided on 4th April 2025 (CD3.20). A Landscape Clarification Note was submitted by the Appellant on 9th May 2025 (CD2.19) to provide clarity to the points made within the LUC response. Alongside the Clarification Note, a Revised LVIA (CD2.20) and Revised Landscape Masterplan (CD2.21) were submitted, with a suite of other updated documents (CD2.08-CD2.24f). Following a query on Public Open Space provision, an updated DAS was submitted (CD2.25) on 16th May 2025, alongside an updated Landscape Masterplan (CD2.26). The Council reconsulted with its third-party landscape advisors, LUC, and a further response was provided on 19th May 2025 (CD3.20a).
- 4.10. The further response from LUC to the Council (CD3.20a) concludes that the overall effect for users of Station Road and the local community at Station Road at year 15 will be **moderate** once vegetation within the site has matured, and the proposed development will be more assimilated into the surrounding landscape.
- 4.11. LUC also set out that:

"In some views from the east looking west, the proposed development will be viewed within the context of the existing residential development at Pippistrelle Drive. It is not believed that the proposed development will obscure views towards North and North West Leicestershire for users travelling east, and will maintain visual connection with the wooded hilltop on the urban fringe of Market Bosworth for users travelling west."

{...}

"It is not believed that the proposed development will obscure views towards North and North West Leicestershire for residents within the more elevated section of Godsons Hill and Station Road. For users looking towards the proposed development at a less elevated level near the proposed access, there is no visual connection with North Leicestershire at this point."

- 4.12. Following the conclusions noted by LUC, no additional submissions were requested and none considered necessary. Furthermore, Officers did not outline in the consideration of the application that landscape was an issue.
- 4.13. Accordingly, matters outstanding at that time were Highways and Biodiversity Net Gain. The latter was resolved, following the masterplan updates, with updated submissions **(CD2.47-CD2.52)**. Highways matters were addressed across a series of requests and additional documents, largely pertaining to a ghost right turn site access. In response to LCC highways consultee responses **(CD3.18-CD3.18d)**, updated highways submissions were made on 19th June 2025 **(CD2.28-CD2.32)**, 25th June 2025 **(CD2.33-CD2.34)**, 26th June 2025 **(CD2.35-CD2.36)** and 1st July 2025 **(CD2.37-CD2.46)**.
- 4.14. The application was presented before the Council's Planning Committee on the 12th August 2025, with an Officer recommendation to grant outline planning permission (Committee Report **CD4.01**), subject to conditions and the applicant entering into a S106 legal agreement relating to affordable housing, highway improvements, open space provision and management and the financial contributions detailed with the Committee Report; as well as that the Head of Planning be given powers to determine the final detail of planning conditions and obligations and that outstanding highway matters are sufficiently controlled and resolved.
- 4.15. The Late Items Report **(CD4.02)** was prepared on the afternoon of the Planning Committee and provided a list of amendments to the planning conditions, as well as various updates on additional consultee responses received since publication of the Committee Report, and clarification on additional matters.
- 4.16. The application was presented to Members at Planning Committee by the Case Officer, noting the Late Items Report. In relation to landscape impacts, the case officer noted in his address to Members that *"To support the assessment of the impact of the development the Council has sought professional landscape advice from Land Use Consultants, also known as LUC. LUC considered the overall effect of the development to be Moderate to Major at Year 1 which would reduce to Moderate at Year 15"*.
- 4.17. *"Due to the age of the relevant housing policies within the adopted Core Strategy and due to the fact that the Council cannot demonstrate a five year housing land supply the tilted balance of paragraph 11d of the National Planning Policy Framework is engaged....As confirmed at paragraph 8.246 of the Committee Report development is considered to cause harm to the character of the area and the countryside which is contrary to several policies within the development plan. However, this harm represents moderate harm at Year 15 to a site that is only valued at local level. And please note that the impact of the previously dismissed scheme was also only considered to result in moderate adverse impact to the landscape character of the site and surrounding area."*
- 4.18. *"The Council has confirmed that currently it has an indicative housing land supply figure of 3.89 years and please note this is almost a year less in the supply of land of housing than the Council had during the previous appeal within this site. Therefore, the demand for, and the weight associated, with the benefit for providing housing within the Borough has increased. As a result, the benefit of this provision of housing is considered to attract significant weight in the planning balance. In addition to this, the proposal provides 40% of its housing units towards affordable housing, which complies with*

*Policy 15 of the adopted Core Strategy and Policy BD1 of the MBNP, and this is considered to attract **significant weight** in the planning balance, and **moderate weight** is afforded to the social and economic benefits associated with this development”.*

4.19. *“In light of the above, and given the requirements of the tilted balance in national policy the moderate long term harm of the development to the character of the area is not considered to significantly or demonstrably outweigh the benefits of the scheme in these site specific circumstances.”*

4.20. The following Heads of Terms are agreed, and meet the requirements of CIL regulations 2010 reg 122(2):

- 40% Affordable Housing
- Early Years Education (St. Peter's CoE Primary School) (£196,592.76)
- Post-16 Education (Bosworth Academy) (£80,361.67)
- Primary SEND Education (The Dorothy Goodman School) (£30,033.40)
- Secondary SEND Education (The Dorothy Goodman School) (£41,091.62)
- Secondary Education (The Market Bosworth School) (£376,146.79)
- Healthcare (NHS England) (£97,574.40)
- Libraries (Market Bosworth Library) (£3,804.91)
- Waste (Barwell Household Waste and Recycling Centre) (£6,240.78)
- Off-Site Outdoor Sports Contributions (£43,787.52)
- Off-Site Outdoor Sports Maintenance (£20,805.12)
- Provision of On-Site Open Space (as set out below)
- On-Site Public Open Space Maintenance (£174,081.60) or undertaken by management company
- Provision of Travel Packs (£52.85 x 126 dwellings) at a total cost of £6,659.10
- Provision of 6-month bus passes (£510x2 x 126 dwellings) at a total cost of £128,520

4.21. On-site Open Space requirements, as set out in the Committee Report (**CD4.01** paragraph 8.226) and listed below, will be secured in the s106 agreement:

POS Type	Equipped Children's Play Space (ECPS)	Casual / Informal Space (C/I S)	Accessible Natural Green Space (ANGS)
Provision per Dwelling (2.4 People per Dwelling) (sqm)	3.6	16.8	40

4.22. Despite Officers recommending it's approval, the Planning Committee resolved to refuse the application. Committee Minutes are provided at **CD4.03** which confirm it was moved by Councillor Bray and seconded by Councillor Cook that permission be refused, with the wording of the reasons for refusal delegated to the Planning Manager in consultation with the chair of the Planning Committee.

4.23. The Decision Notice was issued on the 15th August 2025 (**CD4.04**) and sets out the following reasons for refusal:

1. *The proposal represents new development in the designated open countryside that results in very significant permanent harm to the character of the site, Important View 1, Important*

Vista I, the surrounding area, and the intrinsic value, beauty, open character, and landscape character of the designated open countryside. The proposal is therefore contrary to, and in conflict with, Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policies CE1, CE3, and CE5 of the Market Bosworth Neighbourhood Plan (2025), and Key Policy Paragraphs 129 and 135 of the National Planning Policy Framework (2024). This harm significantly and demonstrably outweighs the potential benefits of the scheme when assessed against the Framework as a whole.

2. *The Applicant has not entered into a Section 106 Agreement that secures the provision of planning obligations for the delivery of affordable housing and public open space, and planning contributions towards highways, health, education, waste services and libraries. As such, the application fails to make the necessary, fair, and reasonable contributions towards the provision and maintenance of necessary infrastructure to mitigate the impact of the development on community services and facilities. Therefore, the application is contrary to, and in conflict with Policy DM3 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Policy 19 of the adopted Core Strategy (2009).*
- 4.24. Reason for Refusal 2 arises because of the absence of a completed legal agreement. The Council has always acknowledged that such matters are capable of being overcome by the submission of such an obligation, having exchanged solicitors' details prior to the Planning Committee in order to advance the necessary agreement.
- 4.25. The Appellant has prepared a draft Planning Obligation to provide for those matters as set out at para. 8.213–8.230 of the Officers Report **(CD4.01)**. An agreed Planning Obligation will be provided to the Inspector in accordance with the Procedural Guide programme prior to the Hearing.
- 4.26. The Appellant will also seek to reach agreement with the Council on a list of planning conditions in advance of the Hearing.

5. Planning Policy Context

- 5.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that determination must be made in accordance with the Development Plan unless material considerations indicate otherwise. This is reaffirmed at Paragraphs 2, 12 and 48 of the National Planning Policy Framework (the 'Framework').

The Development Plan

- 5.2. The relevant statutory Development Plan for the appeal comprises:
- Hinckley and Bosworth Core Strategy (CS) (adopted in December 2009) which covers the Plan period to 2026 **(CD5.01)**
 - Site Allocations & Development Management Policies DPD (SADMP) (adopted in July 2016) **(CD5.02)** – Policies Map **CD5.03**
 - Market Bosworth Neighbourhood Plan (MBNP) (made in July 2025) **(CD5.04)**
 - Leicestershire Minerals and Waste Local Plan (adopted in September 2019) **(CD5.05)**
- 5.3. It is agreed, as evidenced through the Officer's Report **(CD4.01)** that the Hinckley and Bosworth Core Strategy (CS) and the Site Allocations & Development Management Policies DPD (SADMP) are now more than five years old, with the strategic policies in the former prepared and adopted prior to the publication of the first version of the NPPF in 2012.
- 5.4. Paragraph 62 of the NPPF (2024) makes clear that strategic authorities must use the "standard method" formula to determine the minimum number of homes needed in an area (Local Housing Need). The adopted development plan documents do not include a housing requirement based on the standard method, nor do they take account of Leicester City's unmet needs, in accordance with paragraph 69 of the NPPF. Importantly, the strategic policies been not reviewed and found to require updating in accordance with footnote 39 of the NPPF. Accordingly, for the purposes of calculating housing land supply as the policies are more than five years old, and have not been reviewed, the five year housing land supply should be calculated using the standard method.
- 5.5. Whilst the MBNP has been updated in 2025, it does not reflect an up to date housing requirement and again is in conflict with up-to-date government guidance on assessing Local Housing Need through the Standard Methodology. NPPF paragraph 14 is therefore not engaged, as confirmed by officers at paragraph 8.41 of the Committee Report **(CD4.01)**. In any event the MBNP is subject to an ongoing legal challenge.
- 5.6. The Appellant will assess the relevant provisions of the Development Plan, including its consistency with current national policy.

Most Important Policies

- 5.7. The appellant considers that the most important policies for the determination of this appeal are considered to comprise:
- CS Policy 7 (Key Rural Centres)
 - CS Policy 11 (Key Rural Centre Stand Alone)
 - SADPD Policy DM4 (Safeguarding the Countryside and Settlement Separation)

- SADPD Policy DM10 (Development and Design)
- MBNP Policy CE1 (All New Development within Market Bosworth)
- MBNP Policy CE3 (Important Views and Vistas)
- MBNP Policy CE5 (Landscape of the Wider Parish)

- 5.8. The most important policies for determining the application are considered to be out of date, this includes CS Policy 7, CS Policy 11, SADPD DM4 and MBNP CE5.
- 5.9. The policies are considered to be out of date due to the fact that there were based upon the spatial strategy and housing requirements of the revoked East Midlands Regional Plan, which did not seek to meet the needs of today. DM10, CE1 and CE3 are not considered to be out of date and would attract full weight, however the proposals are not considered to be in conflict with these policies.
- 5.10. In addition, the policies are also considered to be out of date as per footnote 8 of the NPPF as HBBC cannot demonstrate a five year supply of housing. Therefore, the tilted balance within paragraph 11 is engaged.

Hinckley and Bosworth Core Strategy (CS) (adopted in December 2009)

- 5.11. The Core Strategy DPD provides the overarching spatial strategy and vision for the development of the Borough up to 2026. The CS was prepared in accordance with the housing requirements of the revoked East Midlands Regional Plan (EMRP), which informed the spatial strategy. Table 1 of the CS sets out that the housing requirement is 9,000 dwellings over the period 2006-2026. This equates to 450 dwellings per annum, over the Plan period. Those housing targets have since been replaced with Local Housing Need, calculated through a standard methodology – now 663 dpa, plus the need to make provision for the unmet needs of its neighbouring authority Leicester City Council. The adopted housing requirements do not reflect current housing needs, and the policies relating to the provision of housing are therefore out-of-date .
- 5.12. It should be noted that no policies within Reason for Refusal 1 are contained within the CS.

Policy 7: Key Rural Centres

- 5.13. CS Policy 7 identifies Market Bosworth as a 'Key Rural Centre'. CS paragraph 4.31 sets out that Key Rural Centres are "those villages that have populations over 1500 people, have a primary school, local shop, post office, GP, community/leisure facilities, employment and a 6 day a week bus service (hourly). Key Rural Centres that provide localised provision of facilities permit access by foot, cycle and local bus and can minimise car journey for those people who are living in the Key Rural Centres, but also the rural villages and hamlets surrounding these centres."
- 5.14. Policy 7 sets out that to support the Key Rural Centres and ensure they can provide key services to their rural hinterland the Council will support housing development within settlement boundaries. The Core Strategy **(CD5.01)** sets out at paragraph 4.5 that in order to fulfil its housing requirements, from the EMRP (2009), land sufficient land will be identified in future plans, reviewing the settlement boundaries to accommodate such. Those settlement boundaries were reviewed is the SADMP **(CD5.02/5.03)** in order to deliver lower housing requirements of the revoked EMRP (2009). Accordingly, the settlement boundaries are out of date and do not respond to the current housing needs.

- 5.15. The Committee Report (**Paragraph 8.9-8.10, CD4.01**) notes that the site is not within the identified settlement boundary of Market Bosworth and therefore in the designated open countryside, therefore Policy 7 is not applicable. The LPA's reasons for refusal do not allege conflict with Policy 7, understandably on this basis.
- 5.16. HBBC have allowed a breach of Policy 7 on numerous occasions by approving residential schemes on land lying outside the defined settlement boundaries.

Policy 11: Key Rural Centres Stand Alone

- 5.17. Policy 11 sets settlement specific policies for a number of the Key Rural Centres, which do not relate to the Leicester Urban Area or the National Forest.
- 5.18. In respect of Market Bosworth, the Council set out that to support local services and maintain rural population levels, the Council will, amongst other criteria, allocate land for the development of a 'minimum' of 100 new homes. Whilst the policy wording suggests a minimum rather than a cap, the figures are derived from the housing requirement set in the EMRP, and therefore over 15 years out of date, and do not take into account current housing needs.
- 5.19. Whilst in technical terms the appeal scheme would be contrary to Policy 11, akin to Policy 7, as the site is within countryside and is not allocated for residential development, the weight to this must be reduced to limited weight, because it is based on settlement boundaries which reflect an out-of-date housing requirement, and the Council cannot demonstrate a five-year housing land supply. The LPA's reasons for refusal do not allege conflict with Policy 11, understandably on this basis.
- 5.20. Again, HBBC have allowed a breach of Policy 11 on numerous occasions by approving residential schemes on land lying outside the defined settlement boundaries.

Policy 14: Rural Areas: Transport

- 5.21. Policy 14 sets out that developers will be required to contribute towards a number of initiatives to support accessibility within the rural area.
- 5.22. Market Bosworth has an hourly bus service running between the Market Place in Market Bosworth, Leicester. Whilst there are good walking routes to the bus stops on Market Place, the appeal scheme will deliver 2 x new bus stops on Station Road, with raised kerbs, pole, flag, timetable case and bus stop markings, which would ensure that the development is accessible for public transport.
- 5.23. The appeal scheme would also support public transport by providing Travel Packs and 2 x six-month bus passes per dwelling. This contribution would promote the use of the bus service and provide support for it. The above provisions will be secured through planning condition.
- 5.24. The appeal scheme thereby accords with Policy 14.

Policy 15: Affordable Housing

- 5.25. Policy 15 sets out affordable housing targets in the rural areas (including Market Bosworth) is 40% on sites of 4 dwellings or more. The tenure mix for all sites is specified as 75% social rent and 25% intermediate housing.
- 5.26. The Committee Report sets out at paragraph 8.222 that *"it is considered that the development can provide a policy compliant provision of affordable housing in accordance with Policy 15 of the adopted Core Strategy and National Planning Policy. This provision towards affordable housing is given significant weight in the planning balance."*
- 5.27. The affordable housing will be secured through the S106 agreement.

Policy 16: Housing Density, Mix and Design

- 5.28. Policy 16 requires a mix of housing types and tenures on all sites of 10 or more dwellings as well as a minimum net density of at least 30 dwellings per hectare within and adjoining the Key Rural Centres.
- 5.29. The exact housing mix will be for approval at reserved matters stage, however the outline proposals demonstrate a density of 35 dwellings per hectare. Paragraph 8.16 of the Committee Report **(CD4.01)** sets out that *"it is considered that the density is acceptable and compliant with Policy 16 of the adopted Core Strategy in these site-specific circumstances"*.

Policy 19: Green Space and Play Provision

- 5.30. Policy 19 sets the standards in relation to the level of green space and play provision in the Borough to ensure all residents have access to sufficient, high quality, accessible green spaces and play areas.
- 5.31. The proposal would deliver 4.33 ha of open space, which includes equipped play spaces (LEAP/LAPs), informal public open space and footpaths. In addition, the proposals will deliver a number of off-site contributions within the Section 106 agreement. Accordingly, the proposal would accord with the requirements set out within Policy 19.

Site Allocations & Development Management Policies DPD (Adopted July 2016)

- 5.32. The Site Allocations & Development Management Policies DPD (SADMP) sets out detailed policies and allocations to deliver the requirements of the Core Strategy (2009), up to 2026 – which has already been outlined to be in conformity with the revoked EMRP. This includes site allocations and site-specific policies to set the localised framework for delivery of new developments.
- 5.33. The policies which are considered most relevant to the determination of this appeal are discussed in turn.

Policy DM1: Presumption in Favour of Sustainable Development

- 5.34. Policy DM1 reiterates the former Paragraph 14 of the Framework (now replaced by Paragraph 11 in more recent iterations of the Framework) in that planning applications that accord with policies in the Local Plan will be approved without delay, unless material considerations indicate otherwise. Where there are no policies relevant to the proposal or the policies are considered out of date the proposal

should be approved subject to material considerations, unless the adverse impacts significantly and demonstrably outweigh the benefits.

- 5.35. The appeal scheme accords with Policy DM1 given relevant policies of the plan are considered to be out of date, by virtue of the fact that the SADMP seeks to deliver the requirements of out-of-date housing requirements, and that the Council are unable to demonstrate a 5 year housing land supply.
- 5.36. As demonstrated within this Hearing Statement the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits, thus according with Policy DM1.

Policy DM3: Infrastructure and Delivery

- 5.37. Policy DM3 outlines that where development will create a need to provide additional or improved infrastructure, amenities or facilities, developers will be expected to make such provision directly or indirectly through the appropriate funding mechanism. As set out at paragraph 4.30-4.31 the appeal scheme includes a number of obligations, onsite and offsite, to be included within the Section 106 agreement. Accordingly, the proposal would accord with the requirements set out within Policy DM3.
- 5.38. As previously referenced, Reason for Refusal 2 only arises because of the absence of a completed legal agreement. The Council has always acknowledged that such matters are capable of being overcome by the submission of such an obligation, having exchanged solicitors' details prior to the Planning Committee in order to advance the necessary agreement.

Policy DM4: Safeguarding the Countryside and Settlement Separation

- 5.39. Policy DM4 seeks to protect the open character and landscape character of the countryside from unsustainable development. It establishes a closed list of developments considered appropriate in rural areas, including outdoor recreation, change of use and proposals to support the rural economy. It then sets out criteria that these forms of development should comply with to be considered sustainable and acceptable in the open countryside.
- 5.40. However, the Council's application of DM4 as a blanket restriction across all countryside areas is inconsistent with the NPPF. Paragraph 187 of the NPPF encourages recognition of the countryside's character and beauty, and the protection of valued landscapes—language which is more nuanced than the rigid approach embedded in DM4. As such, the policy should be regarded as out-of-date.
- 5.41. Furthermore, DM4 must be applied in light of the Council's acknowledged shortfall in housing land supply and the fact that the adopted housing requirement does not reflect current needs. In practice, the Council has approved sustainable housing developments beyond defined settlement boundaries, recognising the necessity of a more flexible approach to meet today's housing demands. The officer's report expressly acknowledges that DM4 is out of date (paragraph 8.233). A difference between the Appellant and Council is how much weight DM4 should be afforded given that it fails to reflect the terms or aspirations of the NPPF.
- 5.42. The Appellant considers that given this context, any conflict with DM4 should be afforded limited weight in the planning balance.

Policy DM6: Enhancing Biodiversity and Geological Interest

- 5.43. Policy DM6 aims to ensure that developments contribute positively to natural conservation and geological features within the site. For major developments, it requires the inclusion of measures that deliver biodiversity improvements.
- 5.44. The policy was originally drafted before the statutory requirement for a minimum 10% Biodiversity Net Gain (BNG) was introduced in 2024. The current proposal will meet this requirement by delivering 10% BNG through on-site and off-site biodiversity enhancements to strengthen the overall ecological value. The commitment to these improvements will be secured through a planning condition.

Policy DM7: Preventing Pollution and Flooding

- 5.45. Policy DM7 seeks to prevent adverse impacts arising from pollution and flooding. It outlines a series of measures designed to ensure that developments do not contribute to environmental harm in these areas.
- 5.46. The site is within Flood Zone 1 and is at low risk of fluvial flooding and a low-to-medium risk of surface water flooding within an existing flow path identified transecting the site east to west.
- 5.47. The appeal proposals have been carefully considered within the submitted Flood Risk Assessment and a Preliminary Drainage Strategy (**CD2.15**) which demonstrates that the proposed development is not at significant flood risk, and simple flood mitigation strategies are recommended to address any residual risk that may remain.
- 5.48. The Council's Drainage Department confirmed that they had no objections to the development subject to three planning conditions in relation to the provision of a sustainable surface water drainage system, and details in relation to its long-term management, and the management of surface water during construction. The LLFA also recommended the approval of the proposal subject to four planning conditions, which included a requirement infiltration testing prior to the commencement of development. The County Council as the Lead Local Flood Authority (LLFA) noted has raised no objections to the proposals.

Policy DM10: Development and Design

- 5.49. Policy DM10 sets out that developments will be permitted provided a number of criteria are met, including criterion c) where developments complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 5.50. The supporting text to Policy DM10 emphasises that new development should take account of existing features and the importance of development considering the inter-relationship with existing development and the surrounding landscape.
- 5.51. HBBC have identified a conflict with criterion c) based on harm to the character of the surrounding area. The appellant does not agree that the development would give rise to this harm. First, the proposals are in outline and DM10 is clearly aimed more properly at reserved matter considerations. DM10(c) cites reference to character of the surrounding area "*with regard to scale, layout, density, mass, design, materials and architectural features*". Most of these matters are expressly reserved

matters which are not before the decision-maker as part of the appeal: scale, layout, design, massing, materials and architecture are all matters controlled by reserved matters approvals and there is no suggestion that the Appeal scheme could not adequately provide for a well designed development in this regard. The Council does not assert any harm arising specifically from the elements of DM10 which are part of the appeal including the density proposed or broad layout that is possible based upon the submitted parameters. Instead, the Council appears to consider conflict arising as a result of landscape impacts more generally, this is not a matter properly governed by DM10. Accordingly, that the proposals comply with the policy.

Policy DM11: Protecting and Enhancing the Historic Environment & DM12: Heritage Assets

- 5.52. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. All proposals for development affecting the setting of Listed Buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting. Development proposals should ensure the significance of a conservation area is preserved and enhanced. There are no alleged conflicts arising in the Decision Notice.
- 5.53. As noted in the Committee Report, Paragraph 22 of the dismissed appeal decision (APP/K2420/W/21/3279808) for the previously refused scheme for up to 63 dwellings within the site (20/01021/OUT) confirmed that the Inspector did not consider the previous scheme to adversely effect the setting or significance of designated and non-designated heritage assets in the locality.
- 5.54. The submitted Heritage Statement confirms that that there are no designated heritage assets within the proposed development site. There are no designated and non-designated heritage assets assessed as sensitive to the proposed development outside of the site.
- 5.55. The Conservation Officer's consultation response, sets out that:
- "This proposal affects the significance of the grade II* listed building the Church of St Peter by virtue of its location within the wider setting of this designated heritage asset. The application site forms a neutral element of its wider setting and overall the proposal for development is considered to result in only a negligible visual change within the periphery of limited views of the church. As a result the impact of the proposal upon the significance of the church is not considered to be adverse. The proposal is therefore compatible with the significance of the listed building and consequently it accords with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duty of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990."
- 5.56. The Committee Report effectively reiterates this advice, setting out that the development is not considered to result in any adverse impacts to the character and significance of the historic environment and confirms compliance Policies DM11 and DM12 of the SADMP.

Policy DM13 Preserving the Borough's Archaeology

- 5.57. DM13 is concerned with archaeology, and states that where proposals would have the potential to impact archaeology then appropriate field evaluation should be undertaken. There are no alleged conflicts arising in the Decision Notice.

- 5.58. There are no records on the Leicestershire & Rutland HER relating to activity within the site. Geophysical surveys of the site have not produced evidence to suggest the probable presence of archaeological assets. The County Archaeologist notes in their consultation response, that

"Whilst the geophysical survey on this site has not provided any definitive evidence for archaeological activity here, it has picked up some anomalies of uncertain origin and an archaeological provenance for these has not been ruled out.

"we are of the opinion that the archaeological potential of the site could be managed by way of a conditioned approach. In this regard it is strongly recommended that the required trial trenching should be undertaken prior to the submission of any forthcoming Reserved Matters application for this development"

- 5.59. Accordingly, the application accords with Policy DM13.

Policy DM17: Highways and Transportation

- 5.60. Policy DM17 states that developments states that development should make the best use of existing public transport services, and, where appropriate, provide opportunities for improving and sustaining the viability of those services, ensure convenient and safe access for walking and cycling to services and facilities, that there is not a significant adverse impact upon highway safety, development is located where the need to travel will be minimised and that the residual cumulative impacts of development on the transport network are not severe.
- 5.61. The appellant has worked alongside Leicestershire County Council, as the Local Highways Authority (LHA), throughout the application determination. There are no alleged conflicts arising in the Decision Notice.
- 5.62. In respect of Policy DM17, criterion a) - The proposal makes provision for 2 x new bus stops out of the site, and provision of 2 x 6 monthly bus passes per dwelling that seeks to improve and sustain the viability of those services.
- 5.63. Criterion b) - The majority of roads within the vicinity of the site are residential in nature and are subject to 30mph speed limits. As part of the access proposals, the existing footway along the northern side of Station Road will be widened to 2.0m along the site frontage. This would then tie back into the existing footway provision to the east and west of the access. The road route from/towards Market Bosworth is considered safe for cyclists, being lit and subject to a 30mph speed limit. Accordingly, it is considered that there is convenient and safe access for walking and cycling to services and facilities as part of the proposals.
- 5.64. Criterion c) - the LHA's review of the up-to-date Personal Injury Collision data confirms that they did not consider the scheme to have any wider highway safety implications, nor to exacerbate any existing highway safety concerns.
- 5.65. Criterion d) -The site is sustainably located, opposite an allocated site, with good pedestrian and cycle links. The site is also well served by public transport bus services, currently running from the town centre, however the proposals will provide 2 x new bus stops and extending of the bus service along Station Road – secured by planning condition. The LHA did not have any objections based on

accessibility. Accordingly, it is considered that the development is located where the need to travel will be minimised in accordance with the policy.

- 5.66. Criterion e) – With respect to cumulative impacts of development on the transport network, the Transport Assessment provided junction capacity assessments for 10 junctions, in agreement with the LHA. The LHA accepted the appellants traffic counts and the inclusion of additional committed developments within their capacity assessments and accepted that the proposals would not have a severe impact.

Market Bosworth Neighbourhood Plan (2025)

- 5.67. The Market Bosworth Neighbourhood Plan 2025 (MBNP) (**CD5.04**) was updated in light of the Examiner's comments in March 2025 (**CD5.08**) and was subsequently approved at referendum on 10 July 2025 and now forms part of the development plan. There is an outstanding legal challenge against the MBNP in respect of three grounds including procedural errors.
- 5.68. Aside from the legal challenge, the Appellant considers that the MBNP should not be seen as a neighbourhood plan which plans to meet its identified housing requirement for the purposes of NPPF paragraph 14. The MBNP includes reference to a Housing Needs Assessment (HNA) (2022), which was undertaken by AECOM, highlighting a residual requirement of 77 dwellings within the Plan Period up to 2039. The starting point is therefore that the level of need is predicated upon the out of date requirement in the Local Plan. Moreover, following modifications recommended by the Examiner, the following statement was included at paragraph 6.14.4 of the MBNP:

"Further to the progression of both the Leicester City Plan and the Hinckley and Bosworth Local Plan, and further to relevant revised national policy, it is accepted that housing needs for the NP area are likely to change. Reflecting Market Bosworth's status as a Key Rural Centre, there will be a need to review the housing allocations for the NP area, in the near future.

Until such a review of the NP takes place, and the housing need for the area has progressed sufficiently through the Local Plan process to a point where it carries weight, windfall development proposals will not be resisted. Such windfall proposals need to be supported by a clear and up-to-date housing needs assessment, and accord with all other policies within this NP."

- 5.69. Accordingly, whilst the MBNP has been updated in 2025, 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 new Neighbourhood Plan does not set out to meet its identified housing requirement. It expressly recognises this and notes that more housing will be needed than that planned for in the MBNP. It includes an express acceptance that windfalls will be required and permitted. Therefore, it is not the sort of neighbourhood plan envisaged by Paragraph 14 of the NPPF and this policy is not engaged. This is a view shared with officers (Paragraph 8.14 of committee report **CD4.01**).
- 5.70. There is a clear and demonstrable housing need. The most recent publication of housing land supply, as of 29 July 2025, outlines a 3.89 year supply. This has been due to be updated for some time, and the LPA acknowledge that since that position the figures are expected to decrease and the land supply worsen. The LPA were anticipating publication of an updated figure by the end of October

2025. However, this has not yet been published at the time of writing and if an updated figure is provided the Inspector will be updated.

- 5.71. The Decision Notice cites reference to three policies contained within the Plan, Policies CE1, CE3 and CE5. These are discussed below.

Policy CE1: Character and Environment / DC1 Design Codes

- 5.72. Policy CE1 outlines that all new development within Market Bosworth should be in keeping with its Character Area with regards to scale, layout and materials to retain local distinctiveness and create a sense of place. Where new development would be visible from an adjacent Character Area, it should be sensitive to the principal characteristics.
- 5.73. The MBNP sets out the Character Areas at Policy DC1: Design Codes (Figure Map 11), ranging from A-I. Any land that falls outdoors of those areas of developed land or parkland are then classified as 'Character Area J: Rural Land'. Indeed, its Defining Characteristics listed at Figure 12 are "All other land within the Neighbourhood Plan Area". Accordingly, there are no defining characteristics to be in character with.
- 5.74. The appeal site does not fall within a developed area or parkland, as such is fall within the residual category of character area J – rural and. The site lies immediately adjacent to Character Area H (Post 2000 Development) to the west, Character Area A (Leisure and Tourism) to the north and Character Area D (Suburban Residential) to the east and south and Character Area B (Industry) also to the south off Station Road. Lying in between 4 different character areas with built development, the proposed development seeks to respect each as an expansion of the main residential area of Market Bosworth.

Policy CE3: Important Views and Vistas and Landscape Character

- 5.75. Policy CE3 states that development will be resisted if it has a significant adverse impact on an important view, vista, or the character of the Parish, unless it can be demonstrated how the development is appropriate and considered sustainable development and can integrate with the character of the landscape setting whilst conserving, and where appropriate, enhancing the character of the landscape.
- 5.76. Since the submission of the planning application, and preparation of the supporting LVIA (**CD1.17**) and LVIA Review (**CD2.20**), the MBNP 2025 (**CD5.04**) has been Made. The Important Views and Vistas have changed significantly since the MBNP 2015 (**CD5.13**) – as shown in the two extracts below.

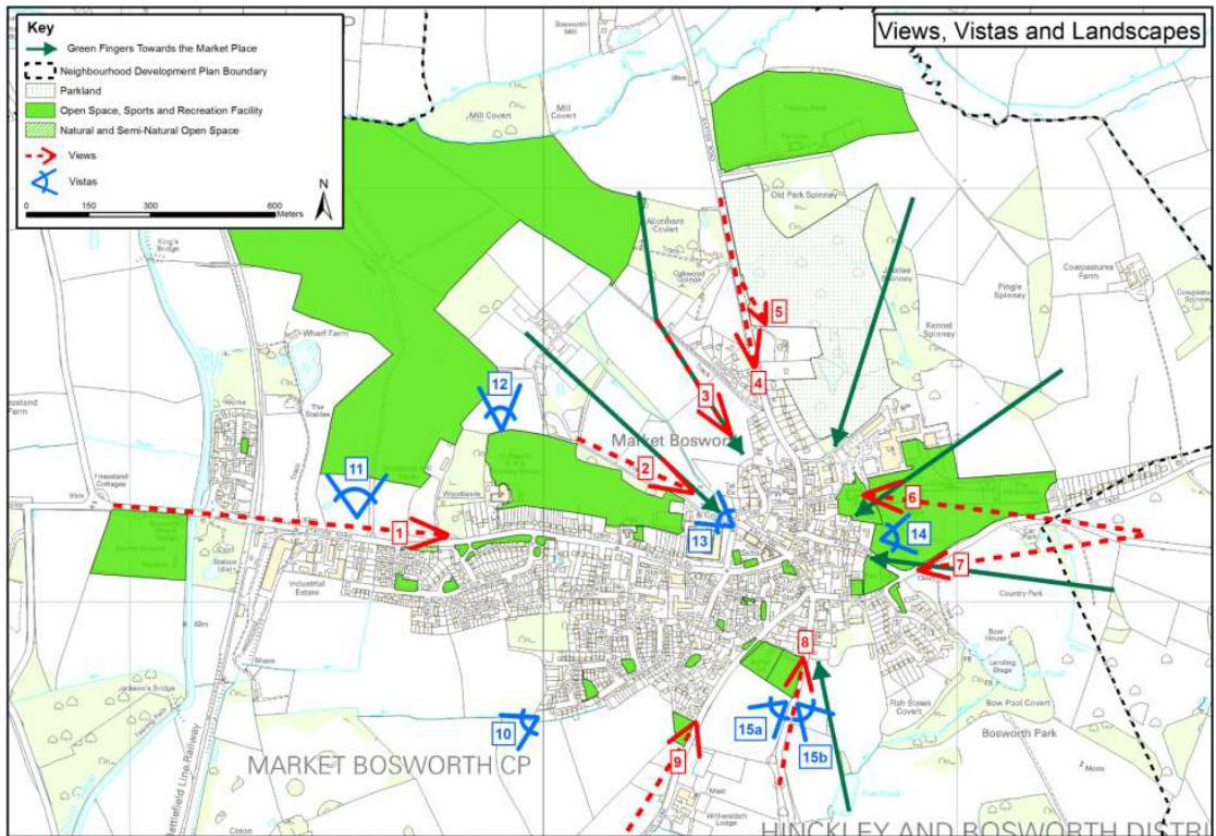


Figure 2 : MBNP 2015 - Views, Vistas and Landscape Map (Page 34)

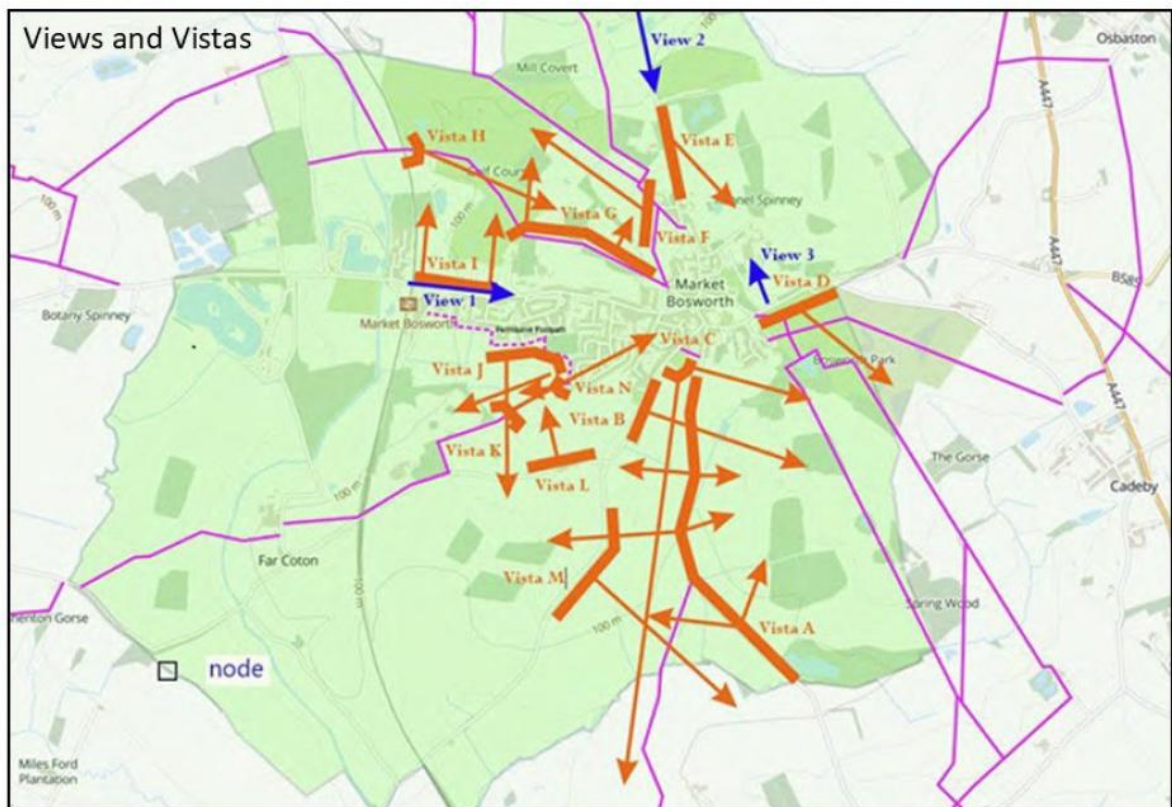


Figure 3 : MBNP 2025 – Important Views and Vistas Map Figure 20 - page 43)

- 5.77. As illustrated by Figure 20 of the MBNP 2025, the majority of the town is now impacted by Views and Vistas (a point raised in the legal challenge to the NP and indeed raised as an issue by the Examiner as part of the examination of the MBNP and an issue she sought to address via modifications to Policy CE3 – **CD5.08** page 24-25).
- 5.78. Important View 1 and Important Vista 11 from the MBNP 2015 were identified as impacting the appeal site. View 1 remains more or less as per the MBNP 2025, however Vista 11 of the MBNP 2015 has been replaced with Vista I. Vista 11 was experienced from a short stretch of Station Road near its junction with Godsons Hill, whereas Vista I is shown as covering the entirety of the Site between the railway line and the woodland at the top of the hill.
- 5.79. The impact of the proposals on these designations is discussed in detail within Ms Wendy Lancaster's Landscape Hearing Statement, however the conclusions are that the development proposals do not result in 'significant' adverse impacts, and accordingly the development proposals do not breach this policy.
- 5.80. Even if the Inspector took a different view as to the level of harm to important views or vistas, amendments to CE3 by the Examiner provide that permission should not be withheld even if significant harm does arise provided the development is appropriate and sustainable and can integrate into the landscape overall. Ms Lancaster's statement sets out how the proposals will integrate into the wider landscape. For the reasons set out elsewhere in this document, the development is entirely appropriate and sustainable. There is therefore no conflict with CE3 even if significant harm to the specific views is considered to arise (contrary to the Appellant's evidence).

Policy CE4: Trees and Hedgerows

- 5.81. Policy CE4 requires mature trees and woodland to be protected where possible, adding that development that will result in the loss of or damage to mature trees woodlands and hedgerows, identified and described in the evidence base document 'A Survey of Important Trees and Hedgerows in the Parish of Market Bosworth' (**CD5.11**) will not be supported unless a satisfactory scheme for the replacement of lost trees, woodlands and hedgerows or mitigation of any damage to the landscape is agreed.
- 5.82. The Arboricultural Impact Assessment (AIA) (**CD2.13**) identified that there are 2 tree preservation orders (TPO) at the site; 14/0001/TPORD" as confirmed on 14/08/2014 and order "75/00011/TPORD" as confirmed on 02/12/1975 – both of which are listed at Appendix D of the 'A Survey of Important Trees and Hedgerows in the Parish of Market Bosworth'.
- 5.83. With regards to TPO order "14/0001/TPORD", this pertains to trees T19, T25, T33, T34, T37, T35 and T36 detailed within this report.
- 5.84. With regards to TPO order "75/00011/TPORD", this pertains to individual trees T1-T21, T25-T37, T45-T47, Trees within G1 and W1, along with hedgerows H3, H4, H5, H8, H9, H10 and the southern section of H2.
- 5.85. Paragraph 5.5(i) of the AIA highlights the proposed development – as per an indicative layout only – would result in the loss of six Category B trees, one Category C tree, and four sections of Category C

hedgerow. Table 5 of the AIA clarifies that these sections equate to 3m of H1 and 30m of H2. It is also noted that protected tree T37 and hedgerow H2 are proposed for removal. A planning condition is proposed to ensure that the existing protected trees and hedgerows that positively contribute to the character of the area are protected.

- 5.86. It is noted that none of the existing trees or hedges are affected by the proposed works to facilitate the accesses into the site. As this outline planning appeal only seeks planning permission for the proposed access to the site, the impact to these existing trees and hedgerows is indicative and therefore cannot be considered as part of the determination of this outline planning application. Accordingly, the proposals do not conflict with Policy CE4.

Policy CE5: Landscape of the Wider Parish

- 5.87. Policy CE5 states that outside the development boundary (which we know to be out-of-date), new development proposals that accord with national policy and the development plan for the area, and other policies within the MBNP, will not be resisted providing they contribute to the local economy, re-use or extend an existing building, relates to sport or recreation or is a rural exception housing site.
- 5.88. The policy adds that any housing proposal adjacent to the existing settlement boundary will be considered positively providing it is accompanied by an up-to-date housing needs assessment and providing any adverse impacts do not outweigh the benefits of the development.
- 5.89. The appeal site is located outside of, but immediately adjacent to, the settlement boundary, and whilst the proposed development does not strictly fall within any of these criteria (acknowledging that there will be some economic benefits arising from the development), thereby breaching this policy, as already established, the MBNP does not meet its identified housing requirement, and therefore policies for the supply of housing are considered out-of-date, including Policy CE5 which seeks to put a blanket restriction on new housing development in the countryside. Conflict with the policy should therefore be only afforded limited weight.

Policy BD1: Affordable Housing

- 5.90. Whilst not cited in the Decision Notice, Policy BD1 is relevant and sets out that all residential development of 10 or more dwellings should provide 40% affordable homes on-site. New affordable housing is to be prioritised to those who have a local connection and is to be spread throughout new developments in smaller clusters of four to six dwellings.
- 5.91. The appeal scheme will deliver 40% affordable housing on site to be secured through the S106 agreement. Accordingly, the proposals comply with the policy.

Policy BD4: Heritage Asset Protection

- 5.92. Policy BD4 of the MBNP confirms that proposals that result in harm to, or the unnecessary loss of, an asset of local heritage value will only be supported if it can be demonstrated that, on balance, the overall benefit outweighs any harm or loss.

- 5.93. There are no designated heritage assets within the site boundary. Due to variations in topography and the presence of intervening built form the scheme is not considered to affect the setting or significance of any nearby designated or non-designated heritage assets.
- 5.94. Furthermore, the Ashby Canal Conservation Area is visually separated from the site by fields, railway infrastructure, and built form, and the development does not affect its character or significance.
- 5.95. A mown landing strip located within the central western section of the site, was associated with Group Captain Churchill when visiting his factory business opposite the site in 1941/1942. It is not recorded on the Historic Environment Record (HER), and the Council's conservation officer agrees that it is not of the level of heritage significance to warrant identification as a non-designated heritage asset, stating it would not be included on the Hinckley and Bosworth Borough Council's Local Heritage List when considered against the Council's Heritage Criteria, which was formally adopted in 2017.
- 5.96. Despite the above, it has been identified as a non-designated asset in the MBNP (2025) along with 52 other non-designated assets, and 75 designated assets. Policy BD4 is based on the Review of Designated Heritage Assets and Non-Designated Assets of local value in the Parish of Market Bosworth (2023) document **(CD5.12)**. The landing strip is listed at page 25 of the document. The complete description and justification for its identification is as follows:
- "When JJ Churchill Ltd was bombed out of Coventry, they moved to Market Bosworth. Initially they set up in the Dower House whilst their factory was being built. Walter Churchill landed his Hurricane on the Landing Strip whilst visiting his new factory to check progress."*
- 5.97. The Appellant agrees with the Borough Council's assessment that it lacks sufficient significance to be treated as a non-designated asset. Harm to or loss of any remnant of the landing strip would therefore not amount to heritage harm for the purposes of the NPPF.
- 5.98. There is a memorial cairn dedicated to Group Captain Churchill and his two brothers in front of the JJ Churchill factory opposite the site. This is also listed as a non-designated asset in the Review of Designated Heritage Assets and Non-Designated Assets of local value in the Parish of Market Bosworth (2023) at page 26. Neither of which are adversely affected by the appeal proposals.
- 5.99. It is not considered that the proposed development would result to any adverse impacts to the character and significance of the historic environment in accordance with Policy BD4. The LPA's reasons for refusal do not allege conflict with Policy BD4, understandably on this basis. Whilst the Appellant and Council are of the view that the landing strip lacks sufficient heritage interest to be termed a non designated heritage asset for the purposes of the NPPF, it is noted that the Parish Council took a different view when preparing the MBNP. Notwithstanding the inclusion of the strip in the long list of items sought to be protected by the MBNP, the heritage interest in the strip (or lack of) remains the same.
- 5.100. In the event that harm was considered to occur, as per the policy wording, proposals would be supported if it is demonstrated that, on balance, the overall benefit outweighs any harm or loss. As noted in the Committee Late Items Report **(CD4.02)** whilst the landing strip is considered to be a feature of some local heritage interest, it lacks sufficient interest to be termed a non-designated

heritage asset and, even if this were to be the case, the overall benefits of the development are still considered to outweigh the loss of the heritage interest afforded to the landing strip in these site-specific circumstances. The Appellant agrees with the Borough Council's assessment.

Development Plan Summary

- 5.101. The appellant considers that the appeal proposals accord with the majority of policies within the development plan. It has been identified that the development proposals conflict with Policy DM4 of the SADMP, insofar as it does not fall within any of the acceptable developments listed within criteria a-e, (it is considered that the proposals accord with criteria (i) to (v) of DM4) as discussed at section 7 of this Statement and within the evidence of Ms Lancaster, and CE5 of the MBNP.
- 5.102. As already outlined, both policies are considered to be out of date as they constrain development based upon out-of-date housing requirements and settlement boundaries. As such, while the proposals may conflict with these out-of-date policies, this does not equate to a failure to accord with the development plan as a whole.
- 5.103. Furthermore, there are important material considerations in this case, outlined in the following section of the Statement, that indicate only limited weight should be afforded to the conflict arising when undertaking the planning balance and that the appeal should be allowed.

6. Other Material Considerations

National Planning Policy Framework (NPPF)

- 6.1. The revised National Planning Policy Framework was published on 12 December 2024 and is a material consideration in decision-taking.
- 6.2. Annex 1 of the NPPF confirms that the policies in the Framework should be taken into account in dealing with applications from the day of its publication (paragraph 231). Due weight should be given to existing development plan policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given) (paragraph 232).
- 6.3. Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 8 sets out that there are three objectives to sustainable development: economic, social and environmental. These are interdependent and need to be pursued in mutually supportive ways.
- 6.4. Paragraph 10 confirms that sustainable development should be pursued in a positive way, and at the heart of the Framework is the presumption in favour of sustainable development.
- 6.5. Paragraph 11 states “plans and decisions should apply a presumption in favour of sustainable development” Paragraph 11 goes on to state, for decision-taking this means:

“approving development proposals that accord with an up-to-date development plan without delay; or

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.”*

- 6.6. Paragraph 14 sets out that “where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
- a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and*
 - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 69-70).*

- 6.7. Paragraph 129 considers that planning decisions should encourage efficient land use while considering housing needs, land availability, market viability, infrastructure capacity, sustainable transport options, local character, and the creation of well-designed, attractive, and healthy environments.
- 6.8. Paragraph 135 considers that planning policies and decisions should ensure that developments are well-functioning, visually appealing, and respectful of local character. They should foster a strong sense of place, make optimal use of land, support infrastructure and transport, and create safe, inclusive, and healthy environments that promote well-being and community cohesion.
- 6.9. In this appeal, the NPPF is a significant material consideration in its determination. The appeal proposal benefits from the presumption in favour of sustainable development under Paragraph 11 of the Framework.

Written Ministerial Statement: “Building the Homes We Need” (30th July 2024)

- 6.10. Alongside the Proposed Reforms to the NPPF Consultation, of which a key component was the proposed reform to the Standard Method for calculating housing needs, in July 2024, was the accompanying Written Ministerial Statement (WMS): “Building the Homes We Need” by the then Housing Secretary, Angela Rayner.
- 6.11. The WMS was clear – “We are in the middle of the most acute housing crisis in living memory” with the Housing Secretary adding that:

“That is why today I have set out reforms to fix the foundations of our housing and planning system – taking the tough choices needed to improve affordability, turbocharge growth and build the 1.5 million homes we have committed to deliver over the next five years.” (My emphasis)
- 6.12. It is acknowledged there will be ‘tough choices’ to be made. But they need to be made.

Written Ministerial Statement: “Building the Homes We Need” (14th December 2024)

- 6.13. Alongside publication of the December 2024 NPPF, was a further Written Ministerial Statement (WMS): “Building the Homes We Need” by the Housing Minister, Matthew Pennycook. The WMS began with highlighting the housing crisis which the new Government has inherited, with just 220,000 new homes built in the previous year (2023), the lowest rate of delivery in a decade. In order to address this crisis, the Minister re-iterated the Government’s ambitious goal of delivering 1.5 million new homes in the current Parliament, as well as vital supporting infrastructure and services.
- 6.14. In relation to Housing Targets, the WMS sets out that the Standard Method (‘SM’) for calculating housing need would once again become mandatory. The SM was also updated to reflect more up to date population projections, which has increased the national annual target of houses required from 300,000 to 370,000 per year. The WMS also set out the removal of the arbitrary 35% ‘urban uplift’ that resulted in an uneven distribution of proposed growth to the main cities. This highlights the Government’s objective to significantly boost the supply of new homes **in all areas** to address need.

6.15. Importantly, the Minister notes:

*“Rapidly driving up planning consents in the context of a system with woefully inadequate local plan coverage will increase the number of permissions secured outside of local plan allocations in the short-term. **This is necessary if we are to see the scale of delivery we need to meet our commitment to 1.5 million homes. Therefore, where it applies, the presumption in favour of sustainable development must have real teeth.**” (My emphasis)*

- 6.16. The appeal proposals would contribute to the national target of 370,000 homes, as well as delivering deliver much needed affordable homes. The presumption in favour of sustainable development applies in this case and should be applied with “real teeth”.
- 6.17. The WMS’s clearly reflect the Government’s strategic priorities, underscoring the urgency with which sustainable development proposals should be progressed. They affirm the imperative of timely approval for schemes that align with national and local policy objectives.
- 6.18. In this case, the delivery of affordable and market housing, the generation of economic value, and the provision of a high-quality, well-designed scheme—including substantial public open space and a dedicated children’s areas of play, set within a demonstrably sustainable location, aligns with those strategic priorities and should not be subject to delay.

National Planning Practice Guidance (PPG)

- 6.19. In addition to the NPPF, the NPPG was updated in December 2024. This updated the Standard method for calculating Local Housing Need as referred to above. The PPG states out that the standard method uses a formula that incorporates a baseline of local housing stock which is then adjusted upwards to reflect local affordability pressures to identify the minimum number of homes expected to be planned for. It sets out that the standard method identifies a minimum annual housing need figure. (Para 002 Reference ID: 2a-002-20241212).

Housing Land Supply

- 6.20. As outlined in the Officers Report (**CD4.01**), the Council’s Planning Policy Team are currently reviewing the latest revisions to the NPPF within the 2024 version of the document and its implications for the Council’s Five-Year Housing Land Supply. A revised position is anticipated to be published by the end of October 2025. However, at the time of writing the parties agree that the Council cannot demonstrate the required 5 year housing land supply.
- 6.21. The changes to the standard method for calculating Local Housing Need (LHN) has resulted in the relevant housing requirement for Hinckley and Bosworth increasing from 450 dwelling per annum (dpa) in the adopted and out-of-date Core Strategy (2009) to 663 dpa as calculated using the standard method (an increase of 213 dpa).
- 6.22. Furthermore, Hinckley & Bosworth is part of the Leicester and Leicestershire Housing Market Area (HMA). The City of Leicester has declared un-met housing and employment needs which have been quantified in the Housing and Economic Needs Assessment (HENA June 2022). Leicester City’s LHN figure was also updated as part of the 2024 NPPF and NPPG publication, which has reduced, albeit unmet needs are still existent. Accordingly, work is underway to update the 2022 SoCG with the

neighbouring authorities, and the proportionate contribution to be made to the unmet needs. HBBC have estimated this contribution to be 45 dwellings per annum (as per the Regulation 18 Local Plan consultation November 2025). The LHN, plus unmet need contribution and requisite 5% buffer, this equates to an annual housing requirement of 743 dpa (293 dpa more than that reflected in the adopted plan).

6.23. Recent evidence as to the Council's land supply position was considered by the Inspector as part of the appeal into development at Land east of The Common, Barwell (23/01229/OUT) in which the Inspector found that the Council had, at that time, 3.55 years' supply. However, even this was based on a requirement figure of 468 dpa, considerably less than the updated LHN of 743 dpa. Even with the unmet need excluded, the requirement would be 696 dpa, again significantly increased from that of the Local Plan.

6.24. The Committee Report states that:

"It is however likely that, with the revised need figure of 682 dwellings (649dpa + 5% buffer as per Paragraphs 62 and 78(a) of the NPPF), that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published." This revised figure is lower than the now published revised LHN and accordingly the supply will worsen as a result.

6.25. It is understood that as part of a further appeal at Oddfellows Arms, 25 Main Street, Higham on the Hill (APP/K2420/W/24/3357570) that an interim land supply statement was provided (albeit not publicly available) with an up-to-date housing requirement figure, as of 1 April 2025, claiming an indicative figure of 3.89 years. The details of this calculation are not publicly available and have not been made available to the Appellant. Nevertheless, it is still well below the requisite 5 years, and indeed the Council acknowledge that the supply figures are expected to decrease as the monitoring exercise is further progressed – anticipated end of October 2025.

6.26. Furthermore, the Committee Report notes at paragraph 8.32, that:

"In comparison to the circumstances of the dismissed appeal against the refused planning application 20/01021/OUT, the Local Planning Authority could demonstrate a 4.45-year supply of land for housing and the therefore the weight afforded to the Council's shortfall in supply of land for housing has increased since the previous appeal."

6.27. The lack of a five year housing land supply renders the policies which are most important to the determination of this appeal out of date and consequently, the appeal scheme benefits from the presumption in favour of sustainable development under Paragraph 11d of the Framework (the 'tilted balance').

6.28. Furthermore, it is important to note that the requirement to demonstrate a five year housing land supply is a minimum requirement of policy. It is not a ceiling beyond which sustainable development should be resisted in principle.

6.29. Should the Council put forward an updated position in respect of the Housing Land Supply Position, the appellant reserves the right to consider this further and put forward additional evidence of its own.

- 6.30. What is highly pertinent to note in addition, is that the Council are relying upon numerous housing developments on greenfield land outside of settlement boundaries in its calculation of its supply, yet even in that scenario it cannot reach the 5 year threshold it is required to. It is therefore clear that rigid application of policies defining the separation between settlements and designated countryside would constrain supply even further and the Council's own approach has been to apply such policies with flexibility in order to attempt to maintain some housing land supply.

Emerging Planning Policy

- 6.31. HBBC are progressing a Local Plan Review which will cover the period 2024 – 2045. Details are set out in the Council's Local Development Scheme March 2025 **(CD5.06)**.
- 6.32. An Issues and Options consultation was undertaken in January 2018, followed by a New Direction for Growth Consultation in January 2019. Consultation on a draft Local Plan (under Regulation 18) took place in June 2021, with a Submission Plan consultation (Regulation 19) in February 2022.
- 6.33. The intention was for the Borough Council to consult on a further round of Regulation 18 draft plan consultation to take account of several changes including the uplift in the affordability ratio, finalisation of the quantum of Leicester City's unmet need and nutrient neutrality. This further Regulation 18 consultation was due to take place during June and July 2024. However, on 22 May 2024, a general election was called which was to take place on 4 July 2024. Due to relevant decision-making legislation associated with elections, the Regulation 18 consultation was delayed until after the election. The consultation consequently took place between 31 July 2024 to 27 September 2024 **(CD5.09)**.
- 6.34. Following the general election, the incoming Labour Government made it clear that reform of planning would be a key area for rapid change. On 30 July 2024 proposed reforms to the planning system, including a draft NPPF and a revised method for calculating housing need were published for consultation. As aforementioned, the proposed reforms were subsequently published as a new NPPF, NPPG and standard housing method in December 2024.
- 6.35. The change to the standard housing method resulted in an increased housing target for the Borough Council, increasing from 432 dpa to 663 dpa. This means that additional housing sites would need to be identified over and above those identified in the 2024 Regulation 18 consultation. Therefore, a further Regulation 18 consultation has now been published (consultation October-November 2025 – **CD5.10**) enabling the Council to ensure that the Plan reflects new requirements in the December 2024 NPPF and NPPG. It also enabled the inclusion of a proportionate contribution to meeting the unmet needs of Leicester City following a previously agreed contribution of 187 dwellings per annum. Finally, it was also necessary for the Council to review and update the plan period to accommodate these changes and ensure at least a 15 year time horizon for the Plan at the point of adoption. Previous iterations of the emerging Plan had a plan period ending as early as 2036., with the 2024 Reg 18 consultation ending in 2041. The current Regulation 18 consultation has a plan period to 2045.
- 6.36. The Council have noted in the 2025 Reg 18 Plan, as this is a follow up to the previous Regulation 18 consultation held in Summer 2024, the scope of the consultation is limited to focus specifically on the new or updated elements of the Local Plan that have been developed since the previous consultation.

- 6.37. As discussed above, the updated LHN is now 663 dpa., plus a 45 dpa indicative contribution towards the unmet needs of the City.
- 6.38. Table 2 of the 2025 Reg 18 Plan identifies a housing requirement of 15,603 dwellings over the plan period 2024-2045. Market Bosworth is identified as a Key Rural Centre, with characteristics that provide a range of services to meet most of the day to day needs of residents and act as a focal point to help meet the needs of the surrounding rural communities. Key Rural Centres sit only behind the Urban Areas of Hinckley, Burbage, Barwell and Earl Shilton.
- 6.39. The 2025 Reg 18 Plan does not include further allocations within Market Bosworth, however the 2024 Reg 18 Plan identified 180 homes on land south of Station Road (phase 2) at Market Bosworth. Representations have been made throughout by the appellant that the appeal site offers a suitable and sustainable location to develop up to 126 additional homes to assist in meeting the increased housing requirement that HBBC are required to deliver.
- 6.40. In accordance with paragraph 49 of the NPPF, at just Reg 18 stage and with unresolved objections at this stage of preparation very limited weight should be attributed to the emerging Local Plan Review in the consideration of the appeal.

7. The Appellants' Case

- 7.1. This section of the Hearing Statement sets out the Appellant's position in relation to the Council's Reasons for Refusal.
- 7.2. The Council is required to clearly state the reasons why it refused planning permission. Section 35(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) states that:
"(b) where planning permission is refused, the 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".
- 7.3. Accordingly, it is inferred that the Council raises no other technical or policy objections to the appeal proposal. Furthermore, in its decision on the application, the Council does not allege any conflict with the adopted Core Strategy, save for in respect of RfR2 relating to the lack of a planning obligation, or that Market Bosworth is an inappropriate and sustainable location for new housing in principle.

Reason for Refusal 1

- 7.4. Reason for Refusal 1 (RfR1) alleges that the appeal proposal would result in very significant permanent harm to the character of the site, Important View 1, Important Vista I, the surrounding area, and the intrinsic value, beauty, open character, and landscape character of the designated open countryside. RfR1 considers such harm would significantly and demonstrably outweigh the benefits of the development. Accordingly, the Council consider the proposal is contrary to, and in conflict with, Policies DM4 and DM10 of the SADMP, Policies CE1, CE3, and CE5 of the MBNP, and Key Policy Paragraphs 129 and 135 of the NPPF.
- 7.5. Ms Lancaster's Hearing Statement address the effect of the proposed development on the character and appearance of the area in relation to landscape. I draw on his conclusions and within this context assess the conflict with the development plan policies and weight to be given to any conflict with those policies.

Policy DM4

- 7.6. Policy DM4 is concerned with land beyond the defined settlement boundaries, with its opening statement:
*"To **protect** its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development."* (My emphasis)
- 7.7. This is inconsistent with the NPPF (para 187a) which only seeks to protect and enhance valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan), not 'the countryside'. It is as a matter of agreement between the parties that the site is not a valued landscape.
- 7.8. In respect of the countryside NPPF 187b is relevant and notes policies should contribute to and enhance the natural and local environment by:

“recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland” (My emphasis)

- 7.9. The nuanced wording noted at Paragraph 187b was only introduced in the July 2018 version of the NPPF, following adoption of the SADMP in July 2016. It is clear that Policy DM4, whilst formulated and adopted post the original 2012 NPPF, is inconsistent with revised wording of subsequent versions.
- 7.10. The policy sets out that development in the countryside will be considered sustainable where it is for (a) outdoor sport or recreation purposes, (b) involves the change of use, re-use or extension of existing buildings, (c) significantly contributes to economic growth, (d) relates to the provision of stand-alone renewable energy developments or (e) rural worker accommodation. The appeal site is outside of the settlement boundaries of Market Bosworth and within countryside. None of the 5 exceptions are applicable to this development. The appeal scheme does not implicitly accord with the criterion – albeit clearly there will be some economic growth associated with the development.
- 7.11. As previously referenced, the housing requirements within the CS (2009), as derived from the EMRP (2009), were 9,000 dwellings over the period 2006-2026. This equates to 450 dwellings per annum, over the Plan period. The settlement boundaries were then drawn in the SADMP (2016) reflecting the EMRP housing needs. Housing needs are now significantly greater, with the emerging LP now planning for 743 dpa, acknowledging that the settlement boundaries need to be redrawn in order to accommodate the necessary growth required. Policy DM4 seeks to implement a spatial strategy in direct conflict with paragraphs 61 and 62 of the NPPF, which seek to significantly boost the supply of homes, informed by a local housing need assessment using the standard methodology.
- 7.12. Accordingly, Policy DM4 which effectively seeks an outright ban on all other development types within the countryside, notably market housing, without the possibility of any countervailing benefit outweighing the prohibition, should be considered out-of-date and afforded limited weight
- 7.13. Aside from the criterion a-e which result in an immediate breach of any housing development on land outside of settlement boundaries, Policy DM4 also includes further criteria (i-v) against which development in the countryside is to be assessed, as follows:

‘Development in the countryside will be considered sustainable where:

- i) It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and*
- ii) It does not undermine the physical and perceived separation and open character between settlements; and*
- iii) It does not create or exacerbate ribbon development; and*
- iv) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and*
- v) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21’*

- 7.14. It is considered that only criterion i) is applicable in this case, stating that a proposal must not have a 'significant' adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. This is further discussed in Section 6.
- 7.15. In relation to criterion i), whilst the development would have a negative effect on the character and appearance of the countryside and so would conflict with SADMP Policy DM4, the view of the Council's professional advisors is that the negative effect would be no greater than a moderate adverse impact. Furthermore, whilst the Officer in his Committee Report (**CD4.01**) notes the scheme would result in significant harm, he continues that the character of the site is only valued at a local level and accepts that the impacts as a result of the proposal are considered to be moderate. This assessment is clearly below the 'significant adverse effect' required within Policy DM4 criteria i. Accordingly, the appeal scheme is not considered to be in breach of the criteria, and it is only the wider breach associated with the development being outside of the settlement boundaries and not falling within any of the 5 exceptions of acceptable development. As already noted elsewhere, Policy DM4 must be read in the context of the lack of a demonstrable 5 year housing land supply, and the fact that the housing requirement dates from the revoked EMRP and does not meet the needs of today or the requirements of the NPPF.
- 7.16. The Council has accepted that Policy DM4 is out-of-date, due to the age of relevant housing policies and a lack of 5 year housing land supply. An array of appeal decisions have granted residential permissions notwithstanding technical conflict with Policy DM4 due to the location of development outside the defined settlement boundaries where development was considered sustainable in accordance with parts (i) to (v) of that policy and broader considerations. Those listed are discussed in further detail below including the weight afforded by each Inspector to the policy.
- Land East Of The Common, Barwell (APP/K2420/W/24/3348387) (**CD6.07**)
 - Land East of the Windmill Inn, Brascote Lane, Newbold Verdon (APP/K2420/W/23/3331081) (**CD6.08**)
 - Land Off Desford Lane Ratby Leicestershire (APP/K2420/W/23/3330774) (**CD6.09**)
 - Ashfield Farm Kirkby Road, Desford (APP/K2420/W/23/3320601) (**CD6.10**)
 - Land South of Hinckley Road, Crabtree Farm, Barwell (APP/K2420/W/21/3284379) (**CD6.11**)
 - Land To The South West Of Lutterworth Road Burbage (APP/K2420/W/23/3316829) (**CD6.12**)
 - Land Opposite Spring Acre Lychgate Lane Burbage (APP/K2420/W/23/3321670) (**CD6.13**)
 - Land Off Beech Drive Thornton (APP/K2420/W/21/3285060) (**CD6.14**)
 - Land North Of Deepdale Farm Lutterworth Road Burbage (APP/K2420/W/20/3265143) (**CD6.15**)
 - Land At Wykin Lane Stoke Golding (APP/K2420/W/20/3262295) (**CD6.16**)

Allowed Appeal - Land East Of The Common, Barwell (APP/K2420/W/24/3348387) determined 13/03/2025

- 7.17. A scheme for 95 dwellings in Barwell (**CD6.07**). Conflict with DM4. The Inspector found:

*"On the main issues I have found that the principle of development in this area of countryside conflicts with SAMD policy DM4 but this only carries **limited weight** because of the Council's HLS position. The proposal would cause some **moderate harm** to the rural landscape character of the area and to a limited geographical area but it would not result in a significant adverse effect which is the test set out in criteria (i) of Policy DM4 and criteria (a) of Policy DM10." (My emphasis)*

**Allowed Appeal - Land East of the Windmill Inn, Brascote Lane, Newbold Verdon
(APP/K2420/W/23/3331081) determined 17/05/2024**

7.18. A scheme for 239 dwellings in Newbold Verdon (**CD6.08**). Conflict with DM4. The Inspector found:

*"There is conflict with Policy DM4 of the SA DPD because the proposal is for development defined by that policy as being unsustainable in the countryside. However, this only carries **limited negative weight** because the spatial strategy of the Development Plan is based on an out-of-date housing requirement.*

*The proposal would result in limited harm to the character and appearance of the area. Whilst complying with Policy DM4 of the SA DPD, this nevertheless weighs negatively in the planning balance. I place **limited negative weight** on this factor." (My emphasis)*

**Allowed Appeal - Land Off Desford Lane, Ratby Leicestershire APP/K2420/W/23/3330774
determined 28/02/2024**

7.19. A scheme for 225 dwellings in Ratby (**CD6.09**). Conflict with DM4. The Inspector found:

*"I have found that the proposed development would conflict with Policy DM4 of the Development Management Plan because the site lies outside the settlement boundary of Ratby and does not fall within any of the categories of development considered appropriate in the countryside. However, that conflict only carries **limited weight** because the spatial strategy of the development plan is out-of-date.*

*I have also found that the proposed development would conflict with Policy DM4 and paragraph 180b) of the Framework in that it would cause harm to the landscape. I give that harm **moderate weight**.*

I conclude that the development would conflict with Policy DM4, not only because it is not included in any of the categories of development considered sustainable in the countryside, but also because it would cause moderate adverse harm to the value, beauty and character of the countryside, albeit that harm would be contained to the local area and would not result in the merging of villages. It would also conflict with paragraph 180b) of the Framework which recognises the intrinsic character and beauty of the countryside, with the implied degree of protection that recognition affords.

*I have identified some adverse impacts arising from the proposal, both in terms of the conflict with the spatial strategy of the plan, and its impact on the landscape. However, those only carry **limited or moderate weight**. When compared to the range of benefits that would flow from the proposal, I conclude that the harm does not significantly and demonstrably outweigh the benefits. Accordingly, it follows that the Framework supports planning permission being granted. That is an important material consideration that carries significant weight." (My emphasis)*

**Allowed Appeal - Ashfield Farm Kirkby Road, Desford (APP/K2420/W/23/3320601)
determined 05/10/2023**

7.20. A scheme for 225 dwellings in Desford (CD6.10). Conflict with DM4. The Inspector found:

*"However, as there would be some harm to the landscape character of the area, the scheme would conflict with SADMP Policy DM4. As the harm would be limited and localised, I attribute **limited weight** to the conflict with this policy
Having regard to the 'tilted balance', the localised and limited harm to landscape character would not significantly and demonstrably outweigh the benefits identified above." (My emphasis)*

**Allowed Appeal - Land South of Hinckley Road, Crabtree Farm, Barwell
(APP/K2420/W/21/3284379) determined 01/06/2022**

7.21. A scheme for 25 dwellings in Barwell (CD6.11). Conflict with DM4. The Inspector found:

*"Within this strategic framework, Policy DM4 is not completely consistent with Paragraph 174 of the Framework. Although it seeks to protect the intrinsic character and beauty of the countryside, it is restrictive in the type of development which could be acceptable. I accord the potential conflict between the appeal scheme and this policy **limited weight**."*

I acknowledged the scheme's conflict with adopted policies and recognise that it could erode the recreational and access functions of the GW as an area of Green Infrastructure in this location. However, the landscape and visual harms arising from the appeal scheme would be localised and limited. In contrast, I accord significant weight to how the scheme could address the continued under supply of housing in the Borough together with its economic, environmental and social benefits. When considered against the policies of the Framework overall these matters weigh in favour of the appeal scheme." (My emphasis)

7.22. The above demonstrate examples of other appeal decision where limited weight has been afforded to the conflict with Policy DM4. However, there are also cases where moderate weight has been afforded to policy breaches and harms, but those adverse impacts have not significantly and demonstrably outweigh the benefits.

**Allowed Appeal - Land To The South West Of Lutterworth Road Burbage
(APP/K2420/W/23/3316829) determined 30/10/2023**

7.23. A scheme for 80 dwellings in Burbage (CD6.12). Conflict with DM4. The Inspector found:

*"In result, the proposed development would generate a limited to moderate amount of harm, which cumulatively can be given a **moderate amount of weight**."*

The development would generate significant benefits to the local housing supply. Other benefits can be given a limited to moderate amount of weight. Therefore, cumulatively the benefits of the proposed development can be given a significant amount of weight.

In consequence, when applying the 'tilted balance' I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. In consequence, I find that planning permission should be granted."

**Allowed Appeal - Land Opposite Spring Acre Lychgate Lane Burbage
APP/K2420/W/23/3321670 determined 30/10/2023**

7.24. A scheme for 85 dwellings in Burbage (CD6.13). Conflict with DM4. The Inspector found:

"Owing to the reduction in these effects, the development would give rise to a moderate adverse effect upon the landscape.

*In result, the benefits of the proposed development can be cumulatively given a significant amount of weight. Conversely, the adverse effects arising from the proposed development, arising from the impacts upon the character and appearance of the surrounding area, are given a **moderate amount of weight**. It therefore follows the adverse effects of granting planning permission do not significantly and demonstrably outweigh the benefits."*

Allowed Appeal - Land Off Beech Drive Thornton (APP/K2420/W/21/3285060) determined 12/05/2022

7.25. A scheme for 49 dwellings in Thornton (CD6.14). Conflict with DM4. The Inspector found:

"The proposal would still result in harm to the character and appearance of the area although the level of that harm would be moderate. Taking this together with the site's location outside the settlement boundary, the proposal conflicts with policy DM4.

*The emphasis of policy DM4 is to protect the countryside from unsustainable development. It therefore broadly chimes with the objectives of the Framework and can be given significant weight. Nevertheless, I have found only moderate harm to the character and appearance of the area and therefore apportion only **moderate weight** to the conflict with policy DM4.*

Whilst there would be harm to the area's character and appearance, it would not be serious harm. There would be no residual harm to highway safety and indeed it would be improved by new traffic calming measures. There is a need for housing and the proposal would support this and provide a number of benefits that are sufficient to overcome the identified adverse impacts when assessed against the Framework policies as a whole."

**Allowed Appeal - Land North Of Deepdale Farm Lutterworth Road Burbage
(APP/K2420/W/20/3265143) determined 06/10/2021**

7.26. A scheme for 165 dwellings in Burbage (CD6.15). Conflict with DM4. The Inspector found:

"The Council cannot demonstrate a five year supply of deliverable housing sites and therefore the policies that are the most important for the determination of the application are deemed to be out-of-date. However, this does not mean they do not apply and, overall, the proposal conflicts with the development plan as a whole.

*Nevertheless, for the reasons already given, the development would have only a modest adverse impact on the character and appearance of the countryside. As a result, the conflict with Policy DM4 of the SADMP and Policy 11 of the BNP is a matter of **moderate weight** against the scheme in this instance. Consequently, the adverse impacts of the development would not significantly and demonstrably outweigh its benefits.*

Thus, taking these matters together, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits. As a result, the application of paragraph 11 d) of the Framework indicates that permission should be granted, when assessed against the policies in the Framework taken as a whole."

**Allowed Appeal - Land At Wykin Lane Stoke Golding (APP/K2420/W/20/3262295)
determined 21/05/2021**

7.27. A scheme for 55 dwellings in Stoke Golding (CD6.16). Conflict with DM4. The Inspector found:

*"To the extent that SADMP Policy DM4 seeks to implement the CS through its approach to the countryside and settlement boundaries, it is also out of date. In terms of weight, the emphasis of the policy is to promote sustainable development in the countryside and protect it from unsustainable proposals. In that regard, there is broad compliance with the NPPF including paragraph 170(b) and so the policy can be afforded significant weight. Market housing schemes such as this appeal are automatically in conflict with the policy as they do not fall within the exceptions in (a) to (e). Nevertheless, it is for the decision maker to consider how much weight to give to the conflict based on the effect of the development on the countryside. In this instance, I have found that the negative effects would be no greater than moderate. Therefore, I attribute **no more than moderate weight** to the conflict with Policy DM4."*

The adverse impacts of the development carry no more than moderate weight and so would not significantly and demonstrably outweigh the benefits when assessed against the NPPF policies taken as a whole. As such, the presumption in favour of sustainable development would apply in line with NPPF paragraph 11 and SADMP Policy DM1.

Concluding on the planning balance, while the development would conflict with CS Policies 7 and 11 and SADMP Policy DM4, there are sufficient material considerations to indicate that permission should be granted."

7.28. Other decisions have of course taken differing views, dependant on the level of harms arising. The Inspector in the previous appeal decision on the Appeal Site, relating to the proposals on the eastern parcel of the now enlarged appeal site, found that there were significant adverse impacts. In that context the Inspector found that the identified adverse impacts arising from the appeal proposal would significantly and demonstrably outweigh the benefits of the scheme when assessed against the Framework taken as a whole, including the benefits arising from the provision of additional market and affordable housing, and that consequently, the appeal proposal did not meet the Framework's presumption in favour of sustainable development.

7.29. This pending appeal proposal differs from its earlier appeal decision, for all of the reasons outlined in respect of the additional land to the west incorporated into the scheme, enabling built development to be located to the north and west, keeping the eastern and southern areas free of built form and retaining important views and vistas accordingly. The scale of housing land supply shortfall is also materially increased since that time, with this anticipated by the Council to increase further upon publication of the latest position. As per the Hallam Land Court of Appeal decision in 2018 (CD6.21) the weight given to the benefits of new housing development in an area where a shortfall in housing land supply has arisen is likely to depend on factors such as the broad magnitude of the shortfall, how

long it is likely to persist, what the local planning authority is doing to reduce it, and how much of it the development will meet. Clearly the position is agreed between all parties that the land supply is deficient. It has been for some time. The Local Plan is out-of-date and the emerging Plan is only at Regulation 18 stage, therefore the shortfall is likely to remain until adoption, which at best, is estimated by the Council not to be until October/November 2027. Whilst the Council have not set out the revised calculation as yet, the shortfall is likely to be at least 1,000 homes, given the updated LHN, plus unmet need contribution and requisite 5% buffer, equating to an annual housing requirement of 743 dpa. The appeal proposals will meet a good proportion of this shortfall.

- 7.30. It is accepted that there will be some harm arising from the development, indeed all greenfield development will generate a degree of landscape harm, but that does of course not make the proposals unacceptable. The Council's advisors and Officers have concluded that the harms are moderate, and do not reach the bar of significant adverse effects, as required by the policy. Nor did the Council's professional officers and advisors consider such harm capable of outweighing the benefits on a tilted balance approach. Accordingly, this appeal scheme differs from that of the previous scheme onsite and should be recognised as such.
- 7.31. It is pertinent to also note that the Committee Report (**Paragraph 8.233-8.236, CD4.01**) outlines that Policy DM4 is out-of-date. Whilst Officers afforded full weight to Policy DM4 in their planning balance they clearly set out in the Committee Report (paragraph 8.247) that the moderate long-term harm of the development of the character of the surrounding area must be weighed against the significant benefits associated with the development, which in their view did not outweigh those benefits. It is unclear why Members took a different view, against the advice of Officers.
- 7.32. For the reasons set out above, the Appellant disagrees with officers that full weight should be afforded to DM4. Continuing to apply full weight to DM4 would be to ignore the significant conflict with the NPPF both on the terms of the policy and its aspirations – it is contrary to the imperative to significantly boost supply and rigid application of the policy is clearly constraining supply in the district. There is a need to make good the housing shortfall and in order to give effect to the NPPF, reduced weight needs to be afforded to DM4 and policies which constrain supply. The officer's report does not deal with the inherent tension between the need to boost supply and a desire to give full weight to the policy and the approach taken is not consistent with the NPPF as a whole.
- 7.33. In conclusion DM4 should be considered to be out-of-date, given that the NPPF states within paragraph 187 that we should look to 'recognise' the character and beauty of the countryside, and that valued landscapes should be 'protected'. Policy DM4 is inconsistent with this wording and only limited weight should be afforded to the conflict with Policy DM4.

Policy DM10

- 7.34. Policy DM10 sets out that developments will be permitted provided a number of criteria are met, including criterion c) where developments complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 7.35. The supporting text to Policy DM4 emphasises that new development should take account of existing features and the importance of development considering the inter-relationship with existing development and the surrounding landscape.

- 7.36. HBBC have identified a conflict with criterion c) based on harm to the character of the surrounding area. Richborough do not agree that the development would give rise to this harm and accordingly that the proposals comply with the policy.
- 7.37. The LVIA submitted with the application, sets out that the site is influenced by adjacent residential and commercial development, and that the proposals have been designed through an iterative process, taking account of existing development and the surrounding landscape, to ensure that landscape and visual impacts have been limited through appropriate mitigation. The Council's professional advisors, LUC, acknowledge that the layout of building parameters and open spaces with significant buffers parallel to Station Road, and an avoidance of built form within the more elevated parts of the site demonstrate the design approach in terms of the Important View and Vistas.
- 7.38. The LUC response concludes that in all cases overall effects of the development will reduce to moderate by Year 15 once vegetation has matured and the proposed development will be more assimilated into the surrounding landscape.
- 7.39. In respect of views associated with Station Road, the local level, LUC also conclude in their consultation response to the Council that:
- "In some views from the east looking west, the proposed development will be viewed within the context of the existing residential development at Pippistrelle Drive. It is not believed that the proposed development will obscure views towards North and North West Leicestershire for users travelling east, and will maintain visual connection with the wooded hilltop on the urban fringe of Market Bosworth for users travelling west."*
- "It is not believed that the proposed development will obscure views towards North and North West Leicestershire for residents within the more elevated section of Godsons Hill and Station Road. For users looking towards the proposed development at a less elevated level near the proposed access, there is no visual connection with North Leicestershire at this point."*
- 7.40. It is therefore considered that the scheme has been carefully designed to assimilate the development into the settlement edge of Market Bosworth and is entirely consistent with the character of the local area, related to matters including pattern, grain, use, scale and mass.
- 7.41. Richborough contend that there is no technical reasoning behind HBBC's suggested conflict with this policy – indeed the Council's professional advisors, LUC, do not agree the development would give rise to the alleged harm. Accordingly, it is considered that the proposals comply with Policy DM10.

Policy CE1

- 7.42. Policy CE1 outlines that all new development within Market Bosworth should be in keeping with its Character Area with regards to scale, layout and materials to retain local distinctiveness and create a sense of place. Where new development would be visible from an adjacent Character Area, it should be sensitive to the principal characteristics.
- 7.43. The MBNP sets out Character Areas at Policy DC1: Design Codes (Figure Map 11), ranging from A-I. Any land that falls outdoors of those areas of developed land or parkland are then classified as

'Character Area J: Rural Land'. Indeed, its Defining Characteristics listed at Figure 12 are "All other land within the Neighbourhood Plan Area". Accordingly, there are no defining characteristics to be in character with.

- 7.44. The appeal site does not fall within a developed area or parkland, as such is fall within the residual category of character area J – rural and. The site lies immediately adjacent to Character Area H (Post 2000 Development) to the west, Character Area A (Leisure and Tourism) to the north and Character Area D (Suburban Residential) to the east and south and Character Area B (Industry) also to the south off Station Road. Lying in between 4 different character areas with built development, the proposed development seeks to respect each as an expansion of the main residential area of Market Bosworth.
- 7.45. Irrespective to the above, as scale, layout and materials are all reserve matters, these should not form part of the decision making as outline stage and accordingly, the proposal would not conflict with the policy.

Policy CE3

- 7.46. Policy CE3 refers to identified Important Views and Vistas. As the Independent Examiner of the MBNP cautioned in her report it is a policy that could be used to "resist development". It has been used in just such a manner in respect of this appeal. It is therefore a policy which squarely falls within the remit of paragraph 11 d) of the Framework. The policy text considers that development will be resisted if it has a significant adverse impact on an important view, vista or the character of the Parish, unless it can demonstrate how that development is appropriate and considered sustainable development, and can integrate with the character of the landscape setting whilst conserving, and where appropriate, enhancing the character of the landscape.
- 7.47. In respect of impacts in relation to the relevant important views and vistas, these are discussed in detail within Ms Lancaster's Landscape Hearing Statement, which sets out how the appeal proposal seeks to address the Inspectors comments made as part of the Appeal Decision (Ref: APP/K2420/W/21/3279808) have been used to guide the current proposals.
- 7.48. The scheme has undergone significant changes, specifically in relation to the extent to which the proposed layout will affect the Key Views and Vistas identified withing the MBNP and makes appropriate provision for the proposed dwellings to be sufficiently set back to maintain recognised views and by providing extensive public open space within the proposed development, not currently accessible to the public. Furthermore, the conclusions are that the development proposals do not result in 'significant' adverse impacts, and accordingly the development proposals do not breach this policy.
- 7.49. Further, as set out above, even if the Inspector were to reach a different view as to the level of harm to the important view and vista, CE3 nevertheless allows permission to be granted where development is acceptable and sustainable overall, as is the case here.

Policy CE5

- 7.50. In respect of Policy CE5 which seeks to put a blanket restriction on new housing development in the countryside, there is conflict as the development lies outside of the settlement boundary, however we know these to be out-of-date, and the conflict should be given limited weight in the planning balance.

NPPF 129

- 7.51. Paragraph 129 relates to efficient use of land, with the, with the immediately preceding title 'achieving appropriate densities'.
- 7.52. It is worthy to note that the density of the appeal scheme is 35 dwellings per hectare, which exceeds the density requirements of Policy 16 of the CS, and accordingly would not be classed as inefficient in itself. Indeed, the Committee Report refers to the density being acceptable and compliant with said policy.
- 7.53. Any alleged conflict appears to relates to criterion d) and e) of NPPF 129 which outlines that in making efficient use of land, developments should take into account the desirability of maintaining an area's prevailing character and setting (including residential gardens) or of promoting regeneration and change, and the importance of securing well-designed, attractive, and healthy places. The assessment against these are tied to the development plan policies to which the scheme has been assessed and refused. As the Council concluded that there would be harm to the character of the site and surrounding area, the same conclusion is drawn in this respect.
- 7.54. It is the appellant's case however that the appeal scheme with the addition of the new tree planting and enhanced boundary hedgerows and trees, whilst providing new vantage points within a large area of public open space, the proposed development will give rise to localised, Minor Adverse effects upon the landscape character of the site upon completion. When assessed at the wider scale, the impact of the proposals on the surrounding LCA C - Bosworth Parkland character area is considered to be Negligible upon completion. Accordingly, it is considered that the scheme complies with NPPF 129.

NPPF 135

- 7.55. Paragraph 135 relates to good design and provides six criteria to ensure that the creation of well-designed and beautiful places is achieved. Akin to NPPF 129, it is assumed the assessment against these are tied to the development plan policies to which the scheme has been assessed and refused., albeit the Committee Report nor Decision Notice refer to a specific conflict with NPPF 135.
- 7.56. It is assumed that as the Council concluded that there would be harm to the character of the site and surrounding area, the same conclusion is drawn in respect of NPPF 135. It is the appellants case that the appeal proposals will be visually attractive as a result of good architecture, layout and appropriate and effective landscaping, and are sympathetic to the local character and history, including the surrounding built environment and landscape setting. Accordingly, it is considered that the scheme complies with NPPF 135.

Reason for Refusal 2

- 7.57. RfR2 pertains to the absence of a completed legal agreement, citing Policies DM3 of the SADMP and Policy 19 of the Core Strategy. Specifically, the RfR refers to omission of obligations in respect of affordable housing and public open space, and planning contributions towards highways, health, education, waste services and libraries.
- 7.58. The application was submitted with draft Heads of Terms (contained within the Planning Statement **Chapter 7 – CD1.05**). Accordingly, the Council has always acknowledged that such matters are

capable of being overcome by the submission of such an obligation, having exchanged solicitors' details prior to the Planning Committee in order to advance the necessary agreement.

7.59. The following Heads of Terms are agreed, and meet the requirements of CIL regulations 2010 reg 122(2):

- 40% Affordable Housing
- Early Years Education (St. Peter's CoE Primary School) (£196,592.76)
- Post-16 Education (Bosworth Academy) (£80,361.67)
- Primary SEND Education (The Dorothy Goodman School) (£30,033.40)
- Secondary SEND Education (The Dorothy Goodman School) (£41,091.62)
- Secondary Education (The Market Bosworth School) (£376,146.79)
- Healthcare (NHS England) (£97,574.40)
- Libraries (Market Bosworth Library) (£3,804.91)
- Waste (Barwell Household Waste and Recycling Centre) (£6,240.78)
- Off-Site Outdoor Sports Contributions (£43,787.52)
- Off-Site Outdoor Sports Maintenance (£20,805.12)
- Provision of onsite open space (as set out below)
- On-Site Public Open Space Maintenance (£174,081.60) or undertaken by management company
- Provision of Travel Packs (£52.85 x 126 dwellings) at a total cost of £6,659.10
- Provision of 6-month bus passes (£510x2 x 126 dwellings) at a total cost of £128,520

7.60. On-site Open Space requirements, as set out in the Committee Report (**CD4.01** paragraph 8.226) and listed below, will be secured in the s106 agreement:

POS Type	Equipped Children's Play Space (ECPS)	Casual / Informal Space (C/ I S)	Accessible Natural Green Space (ANGS)
Provision per Dwelling (2.4 People per Dwelling) (sqm)	3.6	16.8	40

7.61. An agreed draft Planning Obligation will be provided to the Inspectorate part of this appeal. It is not anticipated that the Council will contest this as agreement had previously been reached in all aspects in respect of the Heads of Terms.

8. The Planning Balance

- 8.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.2. It has been identified that the development proposals conflict with Policy DM4 of the SADMP, insofar as it does not fall within any of the acceptable developments listed within criteria a-e, (it is considered that the proposals accord with criteria (i) to (v) of DM4), and CE5 of the MBNP. It is agreed within the Planning SoCG that these policies are out-of-date. as both policies are considered to be out of date as they constrain development based upon out-of-date housing requirements and settlement boundaries. As such, while the proposals may conflict with these out-of-date policies, this does not equate to a failure to accord with the development plan as a whole.
- 8.3. It is also agreed that the Council is unable to demonstrate a minimum five-year housing land supply as required under paragraph 78 of the NPPF. Latest evidence at the time of writing outlines that the Council can demonstrate a 3.89 year supply as of the 1st April 2025. The LPA were anticipating publication of an updated figure by the end of October 2025. However, this has not yet been published at the time of writing and if an updated figure is provided the Inspector will be updated.
- 8.4. In the context of the above it is agreed that the titled balance in Paragraph 11 of the NPPF is engaged and that the appeal proposal should be approved unless the harms significantly and demonstrably outweigh the benefits of the Development when assessed against the policies in this NPPF taken as a whole.
- 8.5. It is also a point of agreement between parties that Paragraph 14 of the NPPF is not engaged as the MBNP does not meet its identified housing requirement. It is therefore agreed that conflict with the Neighbourhood Plan cannot be considered significant and demonstrable harm to outweigh the identified benefits on its own.

Harms arising from the Development

- 8.6. No objection was received to the appeal proposal from any technical statutory consultee as confirmed through within the Planning SoCG.
- 8.7. No case was put forward in the Committee Report that the appeal application should be refused on issues relating to impacts on infrastructure capacity, highways, layout/design, relationship to neighbouring properties, flood risk and drainage, ecology, wildlife and trees, loss of best and most versatile land or infrastructure.
- 8.8. The adverse impacts in respect of landscape and visual effects are considered to be moderate. This moderate harm in respect of one aspect of the development must be considered in the wider planning balance.
- 8.9. Finally, as discussed in detail at Section 7 of this Statement, the proposed development makes adequate provision for infrastructure requirements, including provision of acceptable contributions, in accordance with policies Policy DM3 of the SADMP and CS19 of the Core Strategy.

Benefits of the development

- 8.10. Turning the benefits arising from the appeal proposal and the weight that should be attributed to them in the planning balance, I have set these out below.

Social Benefits

- 8.11. The proposal will result in a broad range of housing types, sizes and tenures for both market and affordable housing that helps to meet current and future housing needs.

Market Housing

- 8.12. The appeal proposal would deliver 126 dwellings, including 51 market dwellings. In the context of the Council not being able to demonstrate a five year housing supply and unresolved objections to the emerging Local Plan and an uncertain timeframe for adoption, I consider that this is a benefit which should be afforded **very significant weight**. The Committee Report attributes “significant weight” (Paragraph 8.222, CD4.01) to this benefit.
- 8.13. It is agreed that a condition requiring the submission of reserved matters applications within two years (rather than three years), and the development shall be begun not later than 18 months from the date of approval of the last of the reserved matters to be approved, as per Draft Condition 1 within the Officer Report (CD4.01), could be imposed to ensure development is commenced at the earliest opportunity if the appeal is allowed. This will ensure housing is brought forward as soon as practically possible to assist in meeting the Council’s shortfall in housing needs.

Affordable Housing

- 8.14. The LPA have an acute need for affordable housing within HBBC. CS Policy 15 ‘Affordable Housing’ identifies a minimum target of 2,090 affordable homes to be provided in the Borough from 2006 to 2026, averaging at 105 dpa.
- 8.15. The affordable housing need substantially increased in the Leicester and Leicestershire Housing and Economic Development Needs Assessment (HEDNA) published in 2017 to 247 dpa (2011-2036) and increased again in the Housing Needs Study (HNS) published in 2019 to 271 dpa (2018-2036). The most recent HNS published in 2024 states that analysis suggests a need for 430 affordable homes per annum across the Borough with a need shown in all sub areas.
- 8.16. The Council have failed to deliver sufficient affordable housing since 2011, with a shortfall of 1,474 affordable homes alone when gross delivery is compared to the HEDNA housing need. Utilising the Council’s five year housing land supply to understand affordable housing delivery across the next 5 year period it is clear that the Council are significant below the HEDNA and HNS need figures. The Residential Land Availability Monitoring Statement (April 2023) identifies that since the start of the CS period (2006), there have been 1,799 affordable housing completions which account for 23.7% of the total completions over the same period. This equates to just 106 dwellings per annum. This is a very worrying and increasing shortfall with hundreds of households not having their needs met
- 8.17. The appeal proposal provides 40% affordable housing on site (51 affordable dwellings) which accords with CS Policy CS15. The provision of 51 affordable homes, in a sustainable location, would make an important contribution to the annual affordable housing needs of the LPA, and Borough wide housing

shortfall, particularly when viewed in the context of past rates of affordable housing delivery. I consider the benefits of such provision should be afforded **very significant weight**.

8.18. The LPA agree with this, confirming within the Officers Report (**Paragraph 8.240. CD4.01**) that:

*"The scheme provides a policy compliant level provision of affordable housing in accordance with Key Policy Paragraph 66 of the NPPF and Policy 15 of the adopted Core Strategy. It is therefore considered that this provision towards affordable housing attracts **significant weight** in the planning balance."* (My emphasis)

8.19. As is the case for market housing, the condition requiring the submission of reserved matters applications within two years will ensure affordable housing is also brought forward as soon as practically possible to assist in meeting the Council's shortfall in affordable housing needs.

Public Open Space

8.20. The proposed development will deliver a significant area of new public open space within the site; approximately 4.33 ha (which is a significant over provision compared with the 0.785 ha required). In addition to meeting the needs arising from the occupiers of the proposed development, the new open space will provide an accessible resource for existing residents in the local area. The open space also provides an area of landscape buffering, along Station Road, conserving important views, soften the appearance of the development and provide an opportunity for ecological enhancement.

8.21. In addition, contributions are secured towards Off-Site Outdoor Sports and On-Site Open Space to be provided within Market Bosworth, further benefitting existing and future communities.

8.22. The open space provision will not only provide an attractive place for rest and relaxation, but will encourage natural outdoor play and recreation, supporting health and wellbeing of the community. I afford this **significant weight**.

Economic Benefits

8.23. The proposed development would assist in meeting the economic objective as during the build programme, construction related jobs and indirect jobs would be created. This would benefit local contractors and suppliers. The proposed development would help contribute to ensuring the Borough has a stable workforce in terms of ability and age.

8.24. Once occupied, the proposal is capable of supporting the existing range of local shops and services in Market Bosworth, increasing potential footfall that would help to ensure their long-term viability and vitality. The proposed development would therefore generate significant spending in the Borough, which would help create full time jobs in the local retail and leisure sectors.

8.25. The additional properties and residents will lead to an increase in Council Tax revenue and New Homes Bonus payments of benefit to the wider borough.

8.26. On this basis, I consider that **moderate weight** should be afforded to the economic benefits.

Environmental Benefits

- 8.27. The site is in a sustainable and accessible location, within walking and cycling distance of a range of services and facilities, including primary schools and public transport facilities. This reduces the need for the use of a private car for everyday travel requirements. I afford this **moderate weight**.
- 8.28. The mature woodland to the east will be retained and supplemented with new tree planting within open space to strengthen wooded character and backdrop, all publicly accessible by new paths off Station Road. The proposed open space will include a natural area of play, tree planting and a priority habitat ponds in the area of biodiversity enhancements that will provide habitats for new and existing wildlife. It will also maintain the long-range views and landscape character of the area. I afford **this significant weight**.
- 8.29. The appeal proposal also provides a high quality sustainable development that responds positively to its built and natural setting. The development will provide an accommodation and tenure mix to meet the needs of the community. I afford this **moderate weight**.
- 8.30. The appeal proposal incorporates the creation of a designated biodiversity area, incorporating the retention of existing woodland habitat, enhancement of grassland species with species rich seeding and careful management, as well as the creation of a water meadow and wildlife ponds helping to create an attractive environment with clear biodiversity benefits, and will deliver biodiversity net gains of at least 10% net gain. I afford this **moderate weight**.

Summary of Benefits of the Appeal Proposals

- 8.31. Whilst it is agreed that there is conflict with the development plan taken as a whole, crucially it is also agreed within the Planning SoCG that the policies are out-of-date.
- 8.32. With the tilted balance of NPPF Paragraph 11 (d) engaged, planning permission should be granted unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole. In my view, moderate landscape harm arising from the proposals does not significantly and demonstrably outweigh the benefits identified above and therefore the appeal should be allowed and outline planning permission granted – this also being the conclusion reached at Page 52 of the Committee Report **(CD4.01)**.

9. Conclusions

- 9.1. This appeal proposes residential development on a site in Market Bosworth, a Key Service Centre, acknowledged to be one of the more sustainable settlements within Hinckley and Bosworth to provide for additional growth, within the context of a shortfall in the Council's five-year supply of housing.
- 9.2. The appeal proposals should be decided in accordance with the development plan unless material considerations indicate otherwise. The Council cannot demonstrate a deliverable five-year housing land supply and in addition, the housing policies in the adopted Core Strategy, the Site Allocations and Development Management Policies DPD, and Neighbourhood Plan are out of date.
- 9.3. In the context of the above it is agreed that the titled balance in Paragraph 11 of the NPPF is engaged and that the appeal proposal should be approved unless the harms significantly and demonstrably outweigh the benefits of the Development when assessed against the policies in this NPPF taken as a whole.
- 9.4. There would be limited conflict with SADMP Policy DM4 (a-e), as there would be an immediate breach of the policy given market housing is proposed on land outside of settlement boundaries, but no breach of criterion i-v as the proposals are considered to result in only moderate harm. Policy DM4 has a higher bar of significant harm.
- 9.5. There would be no conflict with Policy DM10 as it is considered that the scheme has been carefully designed to assimilate the development into the settlement edge of Market Bosworth and is entirely consistent with the character of the local area, related to matters including pattern, grain, use, scale and mass.
- 9.6. There would be no conflict with MBNP Policy CE1 which considers new development should be in keeping with its Character Area. The guidance in relation to this provides no defining characteristics to be in character with. The site borders with four distinct character areas: Post-2000 Development (west), Leisure and Tourism (north), Suburban Residential (east and south), and Industry (south off Station Road). The proposed development aims to complement these areas as an extension of Market Bosworth's residential zone. As scale, layout, and materials are reserved matters, they are not relevant at the outline stage and do not conflict with policy.
- 9.7. There would be no conflict with MBNP Policy CE3 as the proposals do not result in significant adverse impacts.
- 9.8. There would be conflict with MBNP Policy CE5 which seeks to put a blanket restriction on new housing development in the countryside, as the development lies outside of the settlement boundary, however these are out-of-date.
- 9.9. There would be no conflict with CS Policy 19 or SADMP Policy DM3 as the proposed development makes adequate provision for infrastructure requirements, including provision of acceptable contributions.

- 9.10. There would be no conflict with NPPF 129 and 135 as the proposals make an efficient use of land, maintain local character and create well-designed healthy space.
- 9.11. I give weight to these policies insofar as they would allow sustainable development where the landscape harm is not significant. However, I give limited weight to the conflict the proposed development has with these policies in this regard because Ms Lancaster's evidence concludes that the harm arising as a result of the proposed development would not be significant and is localised.
- 9.12. Weighing in favour of the proposed development would be a range of tangible benefits as I have discussed in Section 8 of this Hearing Statement. I consider that the benefits of the scheme are considerable and should be afforded significant weight. The harms arising from the appeal proposal are considered to be limited. As I have demonstrated, I consider that the appeal scheme accords with the up-to-date Development Plan when considered as a whole, with conflicts arising only against policies which are out of date or for which only limited weight can be afforded.
- 9.13. The tilted balance is engaged, therefore planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. It is my professional opinion that the limited harm arising from granting permission is not considered to significantly and demonstrably outweigh the benefits of the proposals, and as a consequence planning permission should be granted.
- 9.14. Further, this is not only a case where harm does not significantly and demonstrably outweigh benefits. This in fact is a case where benefits significantly and demonstrably outweigh harm. The benefits in their own right could be seen as material considerations in indicating that permission should be granted because they will deliver benefits not only to the residents of the proposed development, but to the wider Market Bosworth community and beyond. Accordingly, I give these benefits significant weight.
- 9.15. In conclusion, the harm does not significantly and demonstrably outweigh the benefits, rather the benefits outweigh the harm, and therefore in accordance with the development plan as a whole and the NPPF, planning permission should be granted. I therefore respectfully invite the Inspector to allow the appeal.