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Appeal Ref: 6010718

16/07/2026

Final Comments

1.0 Introduction

- 1.1 In accordance with the Planning Appeals: Procedural Guide – England (March 2026), the Appellant’s Final Comments are prepared in response to the Statement of Case of Hinckley and Bosworth Borough Council (‘the LPA Statement’).
- 1.2 The Appellant continues to rely upon the case set out in its submitted Statement of Case. These Final Comments respond directly to the LPA Statement and to the single Reason for Refusal (‘RfR’), which concerns the design of the gates and means of enclosure and their effect upon the character and appearance of the area.
- 1.3 The Appellant reiterates that the appeal proposal accords with the development plan when taken as a whole, and that the appeal should be allowed.
- 1.4 The Appellant welcomes the conditions suggested by the LPA at Section 4 of the LPA Statement.

2.0 Final Comments

Design, Character and the Wider Countryside

- 2.1 The RfR asserts that the gate and means of enclosure would cause significant harm to the character and appearance of Breach Lane and the wider countryside. The Appellant maintains

its position at Section 5 of the Statement of Case, including its case that the proposal accords with the development plan read as a whole¹, and responds to the specific points raised in the LPA Statement below.

- 2.2 The Council's own evidence undermines the 'wider countryside' limb of the RfR. At paragraph 3.2 of the Delegated Officer Report, the Council states that the Clickers Way bypass "encloses the south of Earl Shilton, severing the application site from the wider countryside." The Appellant agrees. A site which the Council itself accepts is severed from the wider countryside cannot, at the same time, give rise to significant harm to that countryside. The proposal is read against an established, contemporary residential frontage, not an exposed or sensitive rural setting.
- 2.3 The LPA Statement seeks to dismiss the appeal decision relied upon in the Statement of Case² as a Herefordshire matter of no relevance. The Appellant relies on that decision only for the general proposition – which is not jurisdiction-specific – that the Framework does not define the countryside by reference to settlement boundaries. The extent to which this particular site is divorced from the open countryside is a matter of fact and degree, addressed at paragraph 2.2 above.
- 2.4 It is common ground that an entrance feature is not objected to in principle. Paragraph 8.32 of the OR, the Council accepts that "alternative, sympathetic, rural style fencing and gates with retained and enhanced soft landscaping could provide the benefits described without harming the character." The dispute is therefore a narrow one – concerning materials, the siting of the fence, and the associated soft landscaping – each of which is a matter of detail capable of being secured by condition, rather than a matter going to the acceptability of the proposal in principle.
- 2.5 The Council's own measurements confirm the modesty of the proposal. The gate is set back between 5.65 and 6.95 metres from the private highway and rises to between 1.67 and 2.19 metres, with the flanking piers and walls at 1.67 to 1.86 metres in height (Officer Report,

¹ *Basingstoke and Deane Borough Council v Secretary of State for Levelling Up, Housing and Communities & Bewley Homes plc* [2024] EWHC 1916 (Admin).

² *Appeal Ref APP/P1615/W/18/3213122, The Meadows, Bromsberrow Heath, Ledbury, Herefordshire.*

paragraph 2.5). Read against the two-storey dwellings immediately behind, the entrance is neither dominant nor overbearing.

Appendix A and the Comparable Structures

- 2.6 The LPA Statement contends that none of the examples at Appendix A is comparable and that they should carry no weight. The Appellant accepts that each application is determined on its own merits. The examples are nonetheless relied upon for the limited purpose of illustrating the established and varied character of formal boundary treatments within the locality, which is a material consideration.
- 2.7 The Appellant notes the Council's confirmation that the structure shown at Figures 7.0.5 and 7.0.6 is the subject of a live enforcement investigation and is not lawful. In light of that, the Appellant places no reliance upon that particular example and the Inspector is invited to disregard it. The remaining examples (Figures 7.0.1 to 7.0.4 and 7.0.7) are unaffected by that point and continue to illustrate the range of entrance treatments found and accepted within the wider area.

Public Benefit

- 2.8 The LPA Statement, citing Planning Practice Guidance Reference ID 18a-020-20190723³, maintains that the security and privacy afforded by the gates are private benefits only. That guidance, however, forms part of the Planning Practice Guidance on conserving and enhancing the historic environment: the definition of 'public benefits' upon which the Council relies is directed to the balancing exercise engaged where a proposal would harm the

³ What is meant by the term public benefits?

The National Planning Policy Framework requires any harm to designated heritage assets to be weighed against the public benefits of the proposal.

Public benefits may follow from many developments and could be anything that delivers economic, social or environmental objectives as described in the National Planning Policy Framework paragraph 8. Public benefits should flow from the proposed development. They should be of a nature or scale to be of benefit to the public at large and not just be a private benefit. However, benefits do not always have to be visible or accessible to the public in order to be genuine public benefits, for example, works to a listed private dwelling which secure its future as a designated heritage asset could be a public benefit.

Paragraph: 020 Reference ID: 18a-020-20190723

significance of a designated heritage asset. No designated heritage asset is affected by this proposal, and that exercise is not engaged. In the ordinary planning balance which does apply, there is no threshold requiring that a benefit accrue to the public at large before it may be taken into account. The occupiers of the nine dwellings are themselves members of the public, and the benefit to them is properly weighed; the weight to be attached is a matter of planning judgement, but it does not follow that the benefit should be afforded no weight at all. In any event, any such benefit falls to be weighed against harm which, for the reasons given above, is limited.

Soft Landscaping and the Suggested Conditions

- 2.9 The principal technical concern in the Officer Report (paragraphs 8.15 to 8.16) is that the submitted hard landscaping plan would erode the approved soft landscaping – through the removal of the southern hedgerow, the omission of the northern native hedge, and a reduction from six trees to three – and that the siting of the fence and walls would leave insufficient space to mitigate.
- 2.10 The Appellant does not resist the imposition of a soft landscaping condition to resolve these matters. Significantly, the Council itself proposes exactly such a condition at Section 4 of the LPA Statement: suggested Condition 3 requires a soft landscaping scheme to be submitted and approved prior to the construction of the gates and walls, and suggested Condition 4 requires the materials of the gates and walls to be approved. It is not consistent for the Council to maintain that these matters both justify outright refusal and can be secured by its own suggested conditions. The Appellant is content for a condition to require a revised soft landscaping scheme that retains the southern hedgerow and reinstates the northern hedge and the full complement of trees.
- 2.11 Finally, and consistent with paragraph 3.1 of the Statement of Case, the Appellant confirms that this appeal concerns only the gates and walls at the site access, as shown on the drawings the subject of the application. The boundary treatment to Plots 9 and 10 referred to in the LPA Statement forms no part of this appeal; it is a separate matter, presently under

investigation by the Council, and is not a proper basis on which to determine the present proposal.

3.0 Final Comments

Scheme Benefits

- 3.1 The Appellant maintains that the proposal delivers real benefits: a completed, coherent and secure frontage to a high-quality residential development, together with improved safety, privacy and security for its occupiers. The Appellant accepts that the housing itself is now substantially delivered; the benefits relied upon are accordingly those of the entrance feature and the completion of the scheme, and they are properly weighed against the limited harm identified.

Final Case

- 3.2 The Statement of Case and these Final Comments together address the matters material to this appeal. The proposal accords with the development plan when read as a whole, and any residual harm is limited and capable of being addressed by condition.
- 3.3 The Appellant reiterates Sections 5 and 6 of the Statement of Case in full.
- 3.4 It is respectfully requested that the appeal be allowed.

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