

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990



**Hinckley & Bosworth
Borough Council**

WRITTEN STATEMENT ON BEHALF OF THE LOCAL PLANNING AUTHORITY

PLANNING APPEAL BY MR ANDREW GREEN

**AGAINST THE REFUSAL OF OUTLINE PLANNING PERMISSION FOR THE
ERECTION OF A SINGLE (SELF-BUILD DWELLING) (ALL MATTERS
RESERVED EXCEPT ACCESS)**

AT

**LAND NORTH OF WOODLANDS, HIGH TOR EAST,
EARL SHILTON, LEICESTERSHIRE, LE9 7DL**

HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE

25/00233/OUT

THE PLANNING INSPECTORATE REFERENCE

6003147

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1. INTRODUCTION

- 1.1. This statement is to be read in conjunction with the previously submitted Appeal Questionnaire papers, in full support of the decision of Hinckley and Bosworth Borough Council to refuse outline planning permission for the erection of a single self-build dwelling (Access only) at land north of Woodlands, High Tor East, Earl Shilton.

2. DESCRIPTION OF THE APPEAL SITE AND THE PROPOSAL

- 2.1. The description of the appeal proposal and the appeal site are detailed at Sections 2 and 3 of the Delegated Officer Report ('Delegated Report') respectively.

3. SITE HISTORY

- 3.1. The relevant planning history for the appeal site is detailed at Section 4 of the Delegated Report.

4. POLICIES

- 4.1 The relevant local and national planning policies and legislation in the determination of this appeal proposal are detailed at Section 7 of the Delegated Report.

5. THE CASE FOR THE LOCAL PLANNING AUTHORITY

- 5.1 The planning application 25/00233/OUT was refused on 27 June 2025 under delegated powers for the following reasons:

1. The development represents unjustified and unrestricted residential development that exacerbates ribbon development and extends beyond the existing built form of High Tor East into the designated open countryside. The domestication of the application site results in an irreversible and detrimental urbanising and domestic effect that causes significant harm to the character of the site and the surrounding area, including the Earl Shilton North and Barwell West Landscape Sensitivity Area, the Stoke Golding Rolling Farmland Landscape Character Area, and the intrinsic value, beauty, open character, and landscape character of the countryside.

By virtue of these factors, the development is in conflict with, and is contrary to, Chapters 2, 11, 12, and 15 of the National Planning Policy Framework (2024), including Key Policy Paragraphs 129 and 135, Policy 2 of the adopted Core Strategy (2009), Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy 22 of the adopted Earl Shilton and Barwell Area Action Plan (2014), the National Design Guide (2019), and the Good Design Guide (2020). As a result, the scheme is not well designed and fails to reflect local design policies and government guidance on design as a matter of principle. In accordance with Key Policy Paragraph 139 of the NPPF, the development is refused.

2. The development detrimentally impacts and results in the unjustified loss of Local Green Space within the Keats Lane Allotments that is identified within the adopted Earl Shilton and Barwell Area Action Plan (2014) and the Council's Open Space and Recreation Study (2016) as an Open Space and Recreation Facility. This loss causes significant adverse social impacts to the wider community of Earl Shilton.

Therefore, the proposal is contrary to, and in conflict with, Paragraph 104 and Chapter 8 of the National Planning Policy Framework (2024), Policy DM8 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Policy 25 of the adopted Earl Shilton and Barwell Area Action Plan (2014).

3. The Applicant has failed to demonstrate that protected species and their habitats are not adversely affected by this proposal. Therefore, the development is contrary to, and in conflict with, the statutory requirements of Paragraphs 98 and 99 of the ODMP Circular 06/2006 (Biodiversity and Geological Conservation), as well as Chapter 15 of the National Planning Policy Framework (NPPF) (2024), and Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

- 5.2 It is considered that the main planning issues in relation to this appeal are the adverse effects of the proposed development on the intrinsic value, beauty, open character and landscape character of the countryside and the character of the surrounding area, the unjustified loss of a Local Green Space, and the failure to demonstrate that protected species and their habitats would not be adversely affected by this appeal proposal.

Determination of the Appeal Proposal

Weight of Policies within the Development Plan

- 5.3 Paragraphs 10 and 11 of the Appellant's Statement refer to the appeal decision against the refusal of 23/01229/OUT at land east of The Common, Barwell, where the Inspector considered that the policies contained within the adopted Core Strategy were out of date and that Policy DM4 of the adopted Site Allocations and Development Management Policies Development Plan document (SADMP) should only carry limited weight in the determination of that specific appeal.
- 5.4 Firstly, Paragraph 8.32 of Delegated Report confirms that the policies within the adopted Core Strategy are out-of-date. Therefore, this position has never been disputed by the Local Planning Authority within the determination of 25/0233/OUT.
- 5.5 Paragraph 41 of this previous Appeal Decision within Appendix 1 of the Appellants' Statement confirms that Policy DM4 of the SADMP only carried, "Limited weight because of the Council's [Housing Land Supply] position."

- 5.6 Paragraph 10 of that Appeal Decision confirms that this assessment was based on the fact that the parties agreed within the appeal that, “The Council can only demonstrate a 3.55-year supply,” of land for housing. The Supplemental Statement of Common Ground within this previous appeal (cf. Appendix A), confirmed that this position was agreed only for the purposes of that specific appeal based upon the Five-Year Housing Land Supply (5HYLS) Statement from 01 April 2023.
- 5.7 Therefore, the housing land supply position, and the resultant weight attached to the Council’s Development Plan Policies within this previous appeal at Appendix 1 of the Appellant’s Statement does not reflect the current five-year housing land supply position of the Council and would not be considered to be an appropriate basis to determine the current appeal on. Importantly, every planning proposal must be determined on its own merits.
- 5.8 As highlighted by Paragraph 8.6 of the Delegated Report, in accordance with Paragraph 232 of the National Planning Policy Framework (NPPF), existing policies, such as Policy DM4 of the SADMP, should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.
- 5.9 The emphasis of Policy DM4 of the SADMP is to promote sustainable development proposals within the countryside and to safeguard the countryside from unsustainable schemes, rather than to apply a blanket protection. In this regard, Policy DM4 of the SADMP is consistent with, and accords with, the NPPF, and therefore should attract full weight in the planning balance.
- 5.10 Importantly, none of the recent appeals for single self-build and custom house-build developments within countryside locations in the Borough have sought to attach limited weight to Policy DM4 of the SADMP. On the contrary, since the determination of the appeal of 23/01229/OUT referred to at Appendix 1 of the Appellant’s Statement, Inspectors have given significant negative weight to the conflict with Policy DM4 of the SADMP within the determination of single self-build developments within the countryside in the appeals against 24/00872/OUT (cf. Appendix B) and 25/00975/OUT (cf. Appendix C). The allowed appeal against 24/00551/FUL also confirmed that Policy DM4 of the SADMP was consistent with the Framework (cf. Appendix D).
- 5.11 Notwithstanding the above, Policy DM4 of the SADMP is only referred to within the first reason for the refusal of 25/0233/OUT. It is highlighted that the Appellant has not sought to suggest that Policies DM6, DM8, or DM10 of the SADMP, nor Policy 22 of the adopted Earl Shilton and Barwell Area Action Plan (ESBAAP), which form the Development Plan Policies for the refusal of this appeal proposal, should attract anything less than full weight in the planning balance. The Local Planning Authority consider these policies to have strong conformity with the NPPF and should therefore be afforded full weight within the planning balance in accordance with Paragraph 232 of the NPPF.

- 5.12 In summary, the policies within the reasons for refusal of planning application 25/00233/OUT, including Policy DM4 of the SADMP, are considered to have strong conformity with the NPPF. Therefore, these policies can be afforded significant weight within the planning balance in accordance with Paragraph 232 of the NPPF.

Housing Land Supply Position

- 5.13 Since the determination of 23/00233/OUT, the Council's supply of land for housing has been updated. As of April 2024, the Council had a 5.26-year supply of land for housing. However, the Council can no longer demonstrate a five-year housing land supply, and the latest figures as of April 2025 are expected to demonstrate that the Council has a housing land supply of up to 3.95 years.
- 5.14 Whilst the Council are unable to deliver a five-year supply of land for housing, the benefit of providing one dwelling within this appeal site towards the Council's supply of housing would be considered to attract limited weight in the planning balance.
- 5.15 Nevertheless, the 'tilted' balance in Paragraph 11(d) of the NPPF would be triggered within the determination of this appeal. As confirmed at Paragraph 8.32 of the Delegated Report, this is the same position that the Local Planning Authority took during the determination of 25/00233/OUT. For decision-taking, Paragraph 11(d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a strong 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.

- 5.16 In accordance with Footnote 9 of the NPPF, Paragraphs 115, 129, 135, and 139 would be considered to be key policy paragraphs within the determination of this appeal in these site-specific circumstances.

- 5.17 However, Footnote 7 of the NPPF confirms that the areas and assets of particular importance referred to Paragraph 11(d)(i) of the NPPF includes, but is not limited to, designated Local Green Spaces such as the Keats Lane Allotments. The impact of this is discussed further within this Appeal Statement and at Paragraph 8.34 of the Delegated Report.

Self-Build and Custom House-Build Development

- 5.18 The requirements for self-build and custom house-build developments are detailed at Paragraphs 8.39 to 8.50 of the Delegated Report.

- 5.19 Since the determination of 23/00233/OUT, the Council's supply of land for self-build and custom house-build developments has been updated. As of 31 October 2025, the Council has supplied less suitable cumulative permissions than the cumulative required demand for self-build and custom house-build dwellings at the end of Base Period 10, which results in a shortfall of 17 self-build and custom-house build dwellings.
- 5.20 As confirmed at Paragraph 8.49 of the Delegated Report, the appeal proposal has been submitted with a Unilateral Undertaking, which would ensure that the proposal would contribute to Council's unmet demand and cumulative need for self-build and custom house-build permissions.
- 5.21 Nevertheless, whilst the Local Planning Authority are not meeting their statutory duty to permit a sufficient number of self-build and custom house-build schemes, the current proposal would only provide one additional dwelling to this supply. As such, the benefits of this small contribution in addressing the current shortfall in the Council's provision self-build and custom housebuilding developments would be considered to attract moderate positive weight in the planning balance.
- 5.22 The moderate positive weighting of this benefit has been supported by Inspectors within the determination of the most recent appeal decisions regarding self-build and custom house-build developments within the Borough including, but not limited to, 24/00872/OUT (cf. Appendix B), 24/00322/FUL (cf. Appendix E), and 24/00284/OUT (cf. Appendix F). The appeal decision against the refusal of 24/00322/FUL was issued on 15 December 2025 and represents the latest position of an Inspector on self-build and custom-build developments in the designated open countryside.

The First Reason for Refusal: Harm to the Character of the Area

- 5.23 The first reason for the refusal of 25/00233/OUT relates to the scheme's significant and irreversible harm to the character of the site, and the surrounding area, including the Earl Shilton North and Barwell West Landscape Sensitivity Area, the Stoke Golding Rolling Farmland Landscape Character Area, and the intrinsic value, beauty, open character, and landscape character of the countryside.
- 5.24 The Local Planning Authority's assessment of the appeal proposal's significant and detrimental impact on the character of the area is detailed between Paragraphs 8.7 and 8.27, and 8.51 and 8.66 of the Delegated Report. It is noted that the Appellant has failed to make any reference to Local Planning Authority's assessment of the appeal proposal to justify their scheme.
- 5.25 Although Paragraph 34 of the Appellant's Statement suggests that the previous planning history associated with High Tor East confirms that this area is a sustainable location for new residential development, the Appellant has failed to acknowledge that the majority of the properties along High Tor East are located within the identified settlement boundary of Earl Shilton as defined within the ESBAAP's Policies Map and outside of the designated Keats Lane Allotments.

- 5.26 In addition, the Appellant has failed to make any reference to the planning appeal against the refusal of 20/00525/OUT at land north of Bardon View, High Tor East, Earl Shilton (cf. Appendix G), which was dismissed due to its significant harm to the character and appearance of the locality through the introduction of a prominent and incongruous development in a countryside location.
- 5.27 Paragraph 37 of the Appellant's Statement suggests that they would not consider to the appeal proposal to represent ribbon development. As per Paragraph 8.62 of the Delegated Report, the scheme would continue the linear arrangement of High Tor East and extend residential built form in this location to the north into the designated open countryside. The proposal would therefore exacerbate ribbon development in this location, which would result in significant and irreversible harm to the intrinsic character, beauty, landscape character, and open character of the countryside and the surrounding area.
- 5.28 Although the scheme would not extend beyond the residential curtilage of Bardon View, this neighbouring property is on the opposite side of High Tor East and is considered to have a materially different set of circumstances to this appeal site. Furthermore, the appeal proposal would extend beyond the dwelling at Bardon View and beyond the existing residential built form on the western side of High Tor East. Ultimately, as confirmed within the appeal decision against 20/00525/OUT, development beyond the existing residential built form of High Tor East, such as at Bardon View and the appeal site, would result in incongruous development that would result in significant harm to the character and appearance of the site and the surrounding area.
- 5.29 However, the Appellant suggests at Paragraph 37 of their Statement that the harm of the development could be overcome through the final design solution of the scheme.
- 5.30 The Local Planning Authority notes that this appeal proposal does not seek planning permission for the design or appearance of the development. In addition, the Appellant has not sought to demonstrate how the final design solution would overcome the Local Planning Authority's concerns. Therefore, the weight associated with the final design of the scheme would not be considered to attract any weight within the determination of this appeal. Ultimately, the Local Planning Authority's opinion is that the appeal proposal would result in significant and permanent harm to the character of the area and the designated open countryside in principle regardless of its proposed design.
- 5.31 Notwithstanding the above, the Appellant's Statement and Appendices refer to the following planning applications within the Borough to justify their development:
- 23/01129/OUT (Land east of The Common, Barwell)
 - 24/00484/OUT (Land east of Leicester Road, Earl Shilton)
 - 23/00982/OUT (Land to the rear of The Cottage, 34 Keats Lane, Earl Shilton)
 - 18/00701/OUT (Land south of Woodlands, High Tor East, Earl Shilton)

- 5.32 Paragraph 30 of the Appellant's Statement suggests that the Delegated Report for 25/00233/OUT makes, "Absolutely no reference," to these applications.
- 5.33 For the avoidance of doubt, all the planning applications above are referred to and considered within the assessment of 25/00233/OUT between Paragraphs 8.89 and 8.94 of the Delegated Report. As such, the Appellant's justification for their appeal fails to acknowledge, nor appropriately consider the Local Planning Authority's assessment of their appeal proposal.
- 5.34 Whilst the Appellant has also made reference for at Paragraph 27 of their Statement to the planning application 21/00135/OUT at land north of Hill Top Farm, Hill Top, Earl Shilton for up to 140 residential units, the comments made between Paragraph 8.89 and 8.94 of the Delegated Report would still be applicable to this other development.
- 5.35 Crucially, with the exception of the 18/00701/OUT, these previous planning applications were for major developments, which did not result in the loss of designated Local Green Space and were supported by Landscape and Visual Impact Assessments. There are clear significant and material differences regarding the site-specific circumstances, the material considerations, and the level and quantum of associated benefits between these major planning applications and the current appeal proposal, which is for one dwelling. It is therefore considered that these 'comparative' planning applications should be offered very little positive weight in the planning balance of this current appeal.
- 5.36 To summarise, the Appellant has failed to make any reference to Local Planning Authority's assessment of the appeal proposal, nor the key relevant planning appeal decision at Bardon View (cf. Appendix E), to demonstrate that their development proposal would be acceptable in principle in these site-specific circumstances.
- 5.37 Instead, the Appellant has predominantly relied on previous planning applications for major developments that have significant and materially different considerations and benefits in comparison to the provision of one dwelling within this current appeal. Importantly, the Appellant has not sought to refute the Local Planning Authority's consideration of these other schemes within the Delegated Report during the determination of the appeal proposal via 25/00233/OUT.
- 5.38 Ultimately, the development would encroach into, and result in the permanent loss of, land within the designated open countryside and a designated area of public open space. Any residential development within this site would exacerbate the ribbon development of High Tor East and represent a prominent and incongruous domesticating feature in the verdant and rural local landscape. The considerable impact of a dwelling in this location on the character of the area would be heightened by the clear level differences between the appeal site and the other dwellings along High Tor East, and the visual prominence of the development from the Keats Lane Allotments and Public Footpaths T94 and U27.

- 5.39 By virtue of these factors, the development would be contrary to, and in conflict with, Chapters 12 and 15 of the NPPF, including Key Policy Paragraphs 129 and 135, Policies DM4 and DM10 of the SADMP, Policy 22 of the ESBAAP, the National Design Guide, and the Good Design Guide. As a result, the scheme would not be considered to be well designed and would fail to reflect local design policies and government guidance on design as a matter of principle. In accordance with Key Policy Paragraph 139 of the NPPF, it is considered that the appeal should be refused.

The Second Reason for Refusal: Loss of Local Green Space

- 5.40 The second reason for the refusal of 25/00233/OUT relates to the scheme's significant detrimental impact to, and unjustified loss of, Local Green Space within the Keats Lane Allotments. This loss of public open space would cause significant adverse social impacts to the wider community of Earl Shilton.
- 5.41 Paragraphs 32 and 33 of the Appellant's Statement refer to green belts. For the avoidance of doubt, the appeal site is not located within a green belt and therefore these comments would not be relevant to the determination of this appeal.
- 5.42 The Appellant has failed to acknowledge nor engage with the policy requirements within Policy DM8 of the SADMP, Policy 25 of the ESBAAP, nor Paragraph 105 and Chapter 8 of the NPPF for developments affecting areas of public open space.
- 5.43 Paragraph 104 of the NPPF is clear that existing open spaces should not be built on unless the development can comply with one of its three exceptions. Paragraph 104(b) and (c) of the NPPF would not be applicable to this development proposal. The Appellant has not undertaken an assessment to demonstrate that the appeal site, as part of a designed Local Green Space, would be surplus to requirements, and therefore the proposal would be contrary to Paragraph 104(a) of the NPPF.
- 5.44 Whilst the Appellant has highlighted that the Delegated Report for 18/00701/FUL at land south of Woodlands, High Tor East, Earl Shilton suggests that there is a surplus of supply of allotment land within Earl Shilton, this planning application was determined nearly eight years ago. Since this time, the Council has published its latest Open Space Assessment in 2025, which does not state that Earl Shilton has a surplus of allotment land.
- 5.45 Although Page 72 of the Open Space Assessment states that Earl Shilton has a greater provision of allotment land in comparison to the average provision in the Borough of Hinckley and Bosworth, this does not mean that there is a surplus provision of allotment land in this location. Earl Shilton is also likely to have a higher provision of allotment land than the average provision within the Borough because it forms part of the urban and most populated location of the Borough and is one of three primary areas (including Barwell and Burbage) that support Hinckley as a sub-regional centre.

- 5.46 Notwithstanding the above, Page 77 of the Open Space Assessment confirms that the Keats Lane Allotments are well used due to their size and location. Therefore, the further unjustified erosion of the size of the Keats Lane Allotments would diminish the usability of this area of public open space, which would result in significant harm to the wider community of Earl Shilton.
- 5.47 In summary, the proposal would significantly and detrimentally impact on, and would result in the loss of, an area of designated public open space that is identified within the ESBAAP and the Council's latest Open Space Assessment. This loss of Local Green Space would cause significant adverse social impacts to the wider community of Earl Shilton. The Appellant has failed to acknowledge or have any regard to the local and national policy requirements relating to public open spaces. The Appellant has also failed to provide any justification for the loss of this public open space in these site-specific circumstances. As a result, the proposal would be contrary to, and in conflict with, Paragraphs 8(b), 104, and 125(b), and Chapter 8 of the NPPF, Policy DM8 of the SADMP, and Policy 25 of the ESBAAP.
- 5.48 Therefore, the application of policies within the NPPF that protect areas of particular importance would provide a strong reason for refusing the proposed development. Given the above, the 'tilted' balance required by Paragraph 11(d) of the NPPF would be disengaged and the appeal proposal should be determined in accordance with the 'normal' balance as set out at Paragraph 2 of the NPPF.

The Third Reason for Refusal: Ecology Matters

- 5.49 The third reason for the refusal of 25/00233/OUT relates to the Appellant's failure to demonstrate that protected species and their habitats would not be adversely affected by this proposal.
- 5.50 The PPG confirms that the ODMP Circular 06/05: Biodiversity and Geological Conservation ('the Circular') should be read in conjunction with the NPPF and the PPG. Paragraph 99 of the Circular confirms that:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission."

- 5.51 Chapter 15 of the NPPF confirms that planning decisions should contribute to and enhance the natural and local environment. Paragraph 195 of the NPPF confirms that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

- 5.52 Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance nature conservation and geological value, including proposals for their long-term future management. Paragraph 13.30 of the SADMP confirms that:

“Where there is a reason to suspect the presence of protected species, development proposals should be accompanied by a protected species survey undertaken by a suitably qualified ecologist and submitted with the application.”

- 5.53 As detailed in Paragraphs 6.3 and 6.4 of the Delegated Report, Leicestershire County Council’s Ecology Department raised an objection to the appeal proposal because records of protected species were identified in close proximity to the appeal site and no ecological information had been submitted to establish the presence or absence of protected species. As such, the Appellant failed to demonstrate that protected species and their habitats would not be adversely affected by this proposal.
- 5.54 In spite of the above, the Appellant has not sought to submit any ecological information as part of this appeal to overcome the concerns raised by the County Council’s Ecology Department, which forms part of the Local Planning Authority’s reasons for the refusal of 25/00233/OUT. In addition, the Appellant fails to refer to the Circular, Chapter 15 of the NPPF or Policy DM6 of the SADMP within their Statement.
- 5.55 The Appellant only refers to the third reason for refusal once at Paragraph 51 of their Statement and suggests that the concerns of Leicestershire County Council’s Ecology Department could be overcome through a planning condition that secures a Biodiversity Enhancement Plan.
- 5.56 In light of this, it is clear that the Appellant has failed to read or understand the third reason for refusal of 25/00233/OUT because this reason for refusal was not based upon the scheme’s enhancement of biodiversity. The Appellant has not sought to provide any information to confirm impact of the development on protected species or their habitats, nor any justification to suggest that there are exceptional circumstances within these site-specific circumstances that would justify the carrying out of ecological surveys after planning permission. The Local Planning Authority does not consider there to be any exceptional circumstances to justify the absence of the necessary ecological information in these site-specific circumstances.
- 5.57 Given the above, the appeal proposal would be contrary to, and in conflict with, the statutory requirements of the ODMP Circular 06/05: Biodiversity and Geological Conservation, Chapter 15 of the NPPF, and Policy DM6 of the SADMP. As such, the third reason for refusal of planning application 25/00233/OUT would stand and in accordance with Paragraph 195 of the NPPF the presumption in favour of sustainable development as set out at Paragraph 2 of the NPPF would therefore not apply in these site-specific circumstances.

6. CONCLUSIONS

- 6.1 To summarise, Section 38 (6) of the Planning and Compensation Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 indicates that planning permission should be granted for development proposals that accord with the Development Plan unless material considerations indicate otherwise.
- 6.2 It is acknowledged that the Development Plan was adopted prior to the publication of the latest NPPF. However, as a result of the strong consistency with the wording of the NPPF, due weight should be given to the policies within the Development Plan, such as Policies DM4, DM6, DM8, and DM10 of the SADMP, and Policy 22 of the ESBAAP. This is a position that has been accepted by Inspectors within recent appeal decisions for single self-build and custom house-build developments in the designated open countryside in the Borough that have been issued since the determination of the appeal decision for up to 95 dwellings at land east of The Common, Barwell referred to by the Appellant at Appendix 1 of their Statement.
- 6.3 In the determination of this appeal, the 'tilted' balance in Paragraph 11(d) of the NPPF would be triggered whereby planning permission should be granted unless Paragraph 11(d)(i) or (ii) of the NPPF apply.
- 6.4 The proposal would significantly and detrimentally impact on, and would result in the unjustified loss of, an area of a designated Local Green Space that is identified within the ESBAAP and the Council's latest Open Space Assessment. This loss of public open space would cause significant adverse social impacts to the wider community of Earl Shilton. As a result, the second reason for the refusal of planning application 25/00233/OUT would remain valid, and the proposal would be contrary to, and in conflict with, Paragraphs 8(b), 104, and 125(b), and Chapter 8 of the NPPF, Policy DM8 of the SADMP, and Policy 25 of the ESBAAP. This significant harm should attract significant negative weight in the planning balance.
- 6.5 Therefore, the application of policies within the NPPF that protect areas of particular importance would provide a strong reason for refusing the proposed development. Given the above, the 'tilted' balance required by Paragraph 11(d) of the NPPF would be disengaged and the appeal proposal should be determined in accordance with the 'normal' balance as set out at Paragraph 2 of the NPPF.
- 6.6 The Appellant has failed to demonstrate that protected species and their habitats would not be adversely affected by this proposal. The Appellant has not provided any justification to suggest that there are exceptional circumstances within this site-specific development that would justify the carrying out of ecological surveys after planning permission, nor does the Local Planning Authority consider there to be any. Given the above, the third reason for refusal of planning application 25/00233/OUT would stand, and the appeal proposal would be contrary to, and in conflict with, the statutory requirements of the ODMP Circular 06/05: Biodiversity and Geological Conservation, Chapter 15 of the NPPF, and Policy DM6 of the SADMP. This significant harm should attract substantial negative weight in the planning balance.

- 6.7 In light of this reason for refusal, the presumption in favour of sustainable development set out at Paragraph 2 of the NPPF would not apply in these site-specific circumstances in accordance with Paragraph 195 of the NPPF.
- 6.8 In addition to the above, the appeal development would represent unjustified and unrestricted residential development that exacerbates ribbon development and extends beyond the existing built form of High Tor East into the designated open countryside. The domestication of the appeal site would result in irreversible and detrimental urbanising and domestic effects that would cause significant harm to the character of the site and the surrounding area, including the Earl Shilton North and Barwell West Landscape Sensitivity Area, the Stoke Golding Rolling Farmland Landscape Character Area, and the intrinsic value, beauty, open character, and landscape character of the countryside.
- 6.9 By virtue of these factors, the development would conflict with, and would be contrary to, Chapters 2, 11, 12, and 15 of the NPPF, including Key Policy Paragraphs 129 and 135, Policy 2 of the adopted Core Strategy, Policies DM4 and DM10 of the SADMP, Policy 22 of the ESBAAP, the National Design Guide, and the Council's Good Design Guide. As a result, the scheme would not be well designed and would fail to reflect local design policies and government guidance on design as a matter of principle. In accordance with Key Policy Paragraph 139 of the NPPF, the development should be refused. This significant harm should attract significant negative weight in the planning balance.
- 6.10 Nevertheless, it is acknowledged that there would be some potential benefits from the scheme. For example, the Council cannot demonstrate a five-year supply of land for housing, and therefore the development would contribute towards this supply. However, the benefit of providing one additional dwelling within this appeal site towards the Council's supply of housing would be considered to attract limited positive weight in the planning balance.
- 6.11 Furthermore, the Local Planning Authority are not meeting their statutory duty to permit a sufficient number of self-build and custom house-build schemes, and the appeal proposal would also contribute to this supply. Notwithstanding this, the benefits associated with the small contribution of one additional self-build unit to this supply would be considered to attract moderate positive weight in the planning balance. This is a position that has been accepted by Inspectors within all the latest appeal decisions for single self-build and custom house-build developments in the designated open countryside in the Borough.
- 6.12 Whilst the NPPF does not include locational requirements for the provision of self-build and custom housebuilding developments, this does not mean that these types of developments should be exempt from policies designed to direct developments to the most sustainable locations. On the contrary, Paragraph 3 of the NPPF confirms that the National Planning Policy Framework must be read as a whole.

- 6.13 Importantly, Paragraph 35 of the Right to Build Task Force Custom and Self-Build Planning Guidance: PG3.2: Counting Relevant Permissioned Plots (2024) confirms that, “A development contributing to CSB is unlikely on its own to outweigh planning harm (e.g. landscape or environmental harms).”
- 6.14 As confirmed at Paragraph 8.96 of the Delegated Report, whilst there would be potential social and economic benefits of the scheme, these benefits when associated with one dwelling would be modest and would not maintain or enhance the local community. The scheme would also not provide any planning benefits such as affordable housing or essential infrastructure provision. The social and economic benefits associated with this development would therefore be considered to attract limited positive weight in the planning balance.
- 6.15 By virtue of all these factors, it is the Local Planning Authority’s position that the appeal proposal would not comply with, and would be contrary to, the statutory requirements of Paragraphs 98 and 99 of the ODMP Circular 06/2006 (Biodiversity and Geological Conservation), Policies DM4, DM6, DM8, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document, Policy 2 of the adopted Core Strategy, Policies 22 and 25 of the adopted Earl Shilton and Barwell Area Action Plan, Chapters 2, 8, 11, 12, and 15 of the National Planning Policy Framework, including Key Paragraph Policies 129 and 135, the National Design Guide and the Council’s Good Design Guide. As a result, the scheme would not be well designed and would fail to reflect local design policies and government guidance on design as a matter of principle. In accordance with Key Policy Paragraph 139 of the NPPF, the development should be refused. This significant harm should attract significant negative weight in the planning balance.
- 6.16 In light of this, the ‘tilted’ balance of Paragraph 11(d) of the NPPF would be disengaged, and the presumption in favour of sustainable development at Paragraph 2 of the NPPF would not apply in these site-specific circumstances. Nevertheless, the application of policies within the NPPF that protect areas of particular importance would provide a strong reason for refusing the proposed development, and the significant and irreversible adverse impacts of the development would significantly and demonstrably outweigh the potential benefits of the scheme when assessed against the policies in the NPPF taken as a whole.
- 6.17 There are no other material considerations to indicate that the proposal should be determined other than in accordance with the adopted Development Plan in this case. With regard to the information contained in this statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed. However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of the following conditions and reasons suggested below.

7. CONDITIONS

1. An application for approval of reserved matters shall be made within two years of the date of this permission, 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.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. No development shall commence until details of the layout, scale, appearance, landscaping, and access other than vehicular access (hereafter called the reserved matters) have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved reserved matters.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the Site Location Plan, Drg No. 1639/SL received by the Local Planning Authority on 10 March 2025.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. Prior to the commencement of development, a scheme for the investigation of any potential land contamination on the site has been submitted in writing to, and approved in writing by, the Local Planning Authority, which shall include details of how any contamination shall be dealt with. The approved scheme shall be implemented in accordance with the agreed details, and any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. Any forthcoming Reserved Matters application shall include the results of a Preliminary Ecological Appraisal, and any further surveys recommended by this Appraisal.

Reason: The pre-commencement planning condition is required in order to protect the protected wildlife species and their habitats that are known to exist

on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Upon completion of the approved remediation works, a Verification Report shall be submitted to, and approved in writing by, the Local Planning Authority. The Verification Report shall include details of the proposed remediation works and quality assurance certificates to show that the works have been carried out in full accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the Verification Report together with the necessary documentation detailing what waste materials have been removed from the site.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. If during development contamination not previously identified is found to be present at the site no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to, and approved in writing by, the Local Planning Authority, which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. Any forthcoming Reserved Matters application shall include details that demonstrate that the dwelling hereby permitted complies with the minimum bedroom, storage, and internal area requirements of the Nationally Described Space Standards (2015).

Reason: To ensure that the development provides a high standard of residential amenity for the future occupants of the scheme in accordance with Paragraph 6.21 of the Design and Access Statement, Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 135 of the National Planning Policy Framework (2024).

9. Any forthcoming Reserved Matters application shall include details for the adequate provision for waste and recycling storage of containers and collection across the site. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

10. Prior to the commencement of any works above foundation level, a Biodiversity Enhancement Strategy for protected, priority and threatened species shall be submitted to, and approved in writing by, the Local Planning Authority. The Biodiversity Enhancement Strategy shall be prepared by a suitably qualified ecologist and include, but shall not be limited to, the following details:
 - (a) Purpose and conservation objectives for the proposed enhancement measures; and
 - (b) detailed designs or product descriptions to achieve stated objectives; and
 - (c) locations of proposed enhancement measures by appropriate maps and plans (where relevant); and
 - (d) persons responsible for implementing the enhancement measures; and
 - (e) details of initial aftercare and long-term maintenance (where relevant).

The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter.

Reason: To enhance protected, priority and threatened species in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and Section 40 of the NERC Act 2006 (as amended).

11. Prior to installation, the details of any external lighting to be provided in association with the development hereby permitted shall be submitted to, and approved in writing by, the Local Planning Authority. This information shall include a layout plan with beam orientation, a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles), and shall demonstrate that the lighting will not cause harm to bat or their habitats. The details shall be installed, maintained, and operated as approved.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. APPENDICES

9.1 (See separate documents)

9.2 **Appendix A** Supplementary Statement of Common Ground for Appeal APP/K2420/W/24/3348487

9.3 **Appendix B** Appeal Decision – Land SW Sibson Road, Sheepy Parva (APP/K2420/W/25/3361154)

9.4 **Appendix C** Appeal Decision – Land north east of Old White Cottage, 2 Newbold Road, Desford (APP/K2420/W/25/3364808)

9.5 **Appendix D** Appeal Decision – Cold Comfort Farm, Rogues Lane, Hinckley (APP/K2420/W/24/3357989)

9.6 **Appendix E** Appeal Decision – The White House, Bosworth Road, Wellsborough (APP/K2420/W/25/3367383)

9.7 **Appendix F** Appeal Decision – Land at the corner of The Green and Pipe Lane, Orton on the Hill (APP/K2420/W/25/3361470)

9.8 **Appendix G** Appeal Decision – Land north of Bardon View, High Tor East, Earl Shilton (APP/K2420/W/20/3261195)