



Appeal Decision

Inquiry held on 13-16 February 2024

Site visit made on 15 February 2024

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2024

Appeal Ref: APP/K2420/W/23/3330774

Land off Desford Lane, Ratby, Leicestershire LE6 0HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Gladman Developments Ltd and Bletsoe against the decision of Hinckley and Bosworth Borough Council.
 - The application Ref 21/01295/OUT, dated 15 October 2021, was refused by notice dated 1 September 2023.
 - The development proposed is described as an outline planning application for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point. All matters reserved except for means of access.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 225 dwellings (including 40% affordable housing) with public open space, landscaping and sustainable drainage system (SuDS) and a vehicular access point on land off Desford Lane, Ratby, Leicestershire LE6 0HF in accordance with the terms of the application Ref 21/01295/OUT, dated 15 October 2021, and subject to the 26 conditions in the attached schedule.

Preliminary Matters

2. The description used on the application form and as set out in the banner heading above includes some wording that is superfluous because it is not a description of development. I have omitted it in the description used in my decision. It does not change the substance of the proposal.
3. The proposal is made in outline with all detailed matters reserved for later consideration other than for access. Access relates to the proposed vehicular access to Desford Lane and associated highway works. It does not extend to the internal road layout within the site as shown on the development framework plan, which is for illustrative purposes only.
4. A legal undertaking has been submitted which secures a number of planning obligations. I consider the undertaking later in my reasoning. The Council is satisfied that a combination of these obligations and conditions overcomes its concerns around the impact of the development on public facilities and services. Consequently, that reason for refusal no longer needs to be considered as a main issue in the appeal.
5. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties were able to respond to

those changes in preparing their evidence and at the inquiry. I have taken the revised Framework into account in reaching my decision.

6. A draft version of the Hinckley and Bosworth Local Plan 2020-2039 was published for consultation in 2022. I address the weight I give to the plan in more detail in the planning balance.

Main Issues

7. The main issues are the effect of the proposed development on:
 - The spatial strategy of the development plan, in relation to the location of new development
 - The landscape
 - Accessibility to services and facilities
 - The settings of the grade II* listed Church of St Philip and St James, and of the Ratby Conservation Area.
8. It is also necessary to consider the benefits of the proposal, and the consequences of a lack of housing land supply. I do this as part of the planning balance.

Reasons

Spatial strategy

9. The spatial strategy as set out in the Core Strategy Development Plan Document 2009 (the Core Strategy) is to focus development in and around Hinckley, with a lesser amount of development planned for the rural area to ensure that smaller settlements remain vibrant, mixed communities. To that end, Policies 7 and 8 of the Core Strategy support housing development within the settlement boundary of Ratby, which is identified as a Key Rural Centre. Outside the settlement boundary, only limited forms of development are supported, as listed in Policy DM4 of the Site Allocations and Development Management Policies Development Plan Document 2016 (the Development Management Plan).
10. The appeal site lies outside the settlement boundary of Ratby as defined on the Settlement Inset Plan and the proposed development does not fall within any of the categories of development supported by Policy DM4. The proposed development would therefore be at odds with the spatial strategy of the development plan and conflict with Policy DM4.
11. The housing target in the Core Strategy is derived from the former East Midlands Regional Plan, now withdrawn. That housing target has been superseded by a nationally derived housing target calculated using a different methodology, and the need to co-operate with neighbouring planning authorities to address unmet housing demand, which results in a higher housing target. It follows that the development plan no longer reflects current housing need and fails to support the Government's objective of significantly boosting the supply of homes. The policies relating to the provision of housing are therefore out-of-date.

12. I conclude that, in so far as the spatial strategy as set out in the development plan is relevant, residential development on the appeal site would run counter to it and would therefore conflict with Policy DM4 of the Allocations Plan. However, that policy conflict only attracts limited weight because the policies which quantify and distribute housing growth in the development plan are out-of-date.

Landscape

13. In landscape terms the site forms part of an area¹ characterised by gently rolling landform rising to the north, clustered villages of varying sizes, predominantly arable farmland with areas of industry and recreational facilities near to the village fringes, limited tree cover, large to medium sized field patterns surrounded by hedgerows and linear woodland copses, and a good network of footpaths linking settlements. Electricity pylons and wind turbines are often prominent vertical features in the open landscape.
14. The site reflects these landscape characteristics by forming the larger part of what is currently an arable field surrounded by hedges, those to the north and south supplemented by hedgerow trees. It slopes down to the south and east, with its highest point being the proposed access point to Desford Lane. The village of Ratby sits on a hill to the east. To the south a shallow valley separates the site from the neighbouring village of Kirby Muxlowe. Land to the west is designated as part of the National Forest, although adjacent to the appeal site it is farmed land in arable and pastoral use rather than woodland.
15. Although the land surrounding these villages is predominantly agricultural in nature, commercial uses are interspersed within the landscape. A line of pylons runs up the valley. There was general agreement in the evidence presented on landscape that the site and surrounding area has a medium to medium-high sensitivity to change. Although not a 'valued' landscape in the sense used in paragraph 180b) of the Framework, I recognise it as having its own intrinsic character and beauty.
16. Residential development on the site would introduce domestic scale buildings together with roads, vehicles and lighting. The development as well as the activities associated with it would suburbanise the site and would inevitably harm its agricultural character and appearance and the contribution it makes to the landscape. Although residential buildings would not front Desford Lane, the development would still be readily seen from it and the public footpath that runs along the western boundary of the site, and in views across the valley from the south. Some landscape mitigation could be provided, with up to half of the site potentially being available. However, even after such planting had become established, the houses and associated activities would still be visible because of the proximity of the footpath and the sloping nature of the site.
17. The highway works to Desford Lane would also have a material impact on its character and appearance. Although well trafficked, at present the lane provides a largely rural approach to Ratby. In my view the built-up entry to the village does not become apparent until one gets near the new medical centre. The proposed highway works would suburbanise the lane by straightening and widening parts of it, introducing new hard surfacing and lighting, and reducing

¹ Hinckley and Bosworth Borough Landscape Character Assessment 2017 – LCA D: Newbold and Desford Rolling Farmland

the amount of soft verge. The hedgerow along the site frontage would also have to be removed but is proposed to be replanted behind the access sight line.

18. The development would be separated from the existing built-up edge of Ratby by the playing fields of Ratby Sports Club to the north and small meadows either side of Little Rothley Brook to the east. I was presented with differing views as to how this separation would be perceived in landscape terms. Other than for the hedged and treed boundary to Desford Lane, the playing fields do not in my view contribute to the wider landscape because they do not reflect its characteristic features. They provide an open and green space adjacent to the built-up area but are formal in appearance with terraces to accommodate the playing pitches.
19. The meadows however provide a more obvious break between the site and the western edge of the village. In views from the west and southwest, development on the site would be seen against the backdrop of existing housing in Ratby, but from the south and southeast it would be apparent that the development was on a separate hillside to that occupied by the existing village and that there was a green wedge separating it from existing housing.
20. Balanced against that sense of separation from Ratby is the presence of commercial operations in the immediate vicinity of the appeal site, the most evident being that of the stoneworks and to a lesser extent a caravan storage use on the opposite side of Rothley Brook. Development on the site would be seen as occupying land between these commercial operations and Ratby, rather than intruding out into open countryside. Sufficient countryside would remain between Ratby and Kirby Muxlowe to maintain a separation between the villages.
21. Taking all of these factors together it is my view that the development would have a harmful impact on the landscape by introducing built development on agricultural land that is characteristic of the landscape and forms part of its intrinsic character and beauty. While the proposal would be perceived as spreading development beyond the hilltop setting of Ratby and separated to an extent from its existing built-up edge, that perception would be moderated by the presence of the nearby commercial operations such that the harm would be contained to the local area. Planting would help to mitigate that harm to an extent. However, given the visibility of the site there would remain moderate adverse harm to the landscape in the long term.
22. The Council's reason for refusal relating to landscape harm refers to Policies 6 and 7 of the Core Strategy. Neither of these policies are relevant to impact on the landscape as the former relates to a green wedge designation and the latter relates to development within key rural centres, neither of which the site falls within. Reference is also made to Policies DM1 and DM10 of the Development Management Plan. Policy DM1 relates to the presumption in favour of sustainable development (paragraph 11 of the Framework), which I address later. Policy DM10 is aimed primarily at detailed design, which is relevant for the reserved matters but not the outline stage.
23. That leaves Policy DM4 of the Development Management Plan. Its purpose is to safeguard the countryside and maintain separation between settlements. It does that by protecting the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development. The

appellants argue that the detailed criteria i) to v) are only relevant where development falls within the categories of development considered sustainable in the countryside as set out in criteria a) to e). Given the joining preposition 'and' between these lists of criteria in the policy, that interpretation must be right. However, that does not prevent the first sentence of the policy from being relevant to unsustainable forms of development in the countryside.

24. 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.

Accessibility to services and facilities

25. Ratby is identified in the Core Strategy as a Key Rural Centre because it contains a primary school, local shop, post office, medical surgery, community and leisure facilities, employment opportunities and a 6 day a week bus service. These services and facilities are recognised in the Core Strategy as making it a place where residents can fulfil their daily needs without having to travel long distances into urban areas. A need identified in Policy 8 of the Core Strategy to improve medical facilities in Ratby has recently been secured through completion of the new medical centre on Desford Lane.
26. At present the site is not well connected to the services and facilities in Ratby. Desford Lane has no footways and is unlit for most of its length, and there is no other direct access across Little Rothley Brook to the village. The proposed highway works would therefore be critical in securing accessibility to the village as well as wider afield by means other than the private motor car.
27. With the proposed highway works, walking distances to the services and facilities in the village may be longer than is desirable but nevertheless most would be within what are acceptable or preferable maximum distances for pedestrians without a mobility impairment². The proposed bus stops would be within a desirable walking distance. Average walking distances to facilities in the centre of the village would be comparable to those from dwellings in its northern and southern parts, including recent residential development off Markfield Road.
28. Because the proposal is made in outline with layout reserved for later consideration, the measurement of distances has been taken from a central point in the site, meaning that some occupants would have to walk further and some less than that calculated³. Given the somewhat subjective nature of what may be considered desirable, acceptable or the maximum preferable walking distances, I consider that does not invalidate the findings detailed above.
29. The quality of the walking route is also important in encouraging future occupants to walk or cycle rather than take the car for short journeys. In that regard the separate shared footway/cycleway with street lighting and the new pedestrian crossing would provide a safe route into the village for both

² Institution of Highways & Transportation: guidelines for providing for journeys on foot 2000, table 3.2

³ Accessibility statement of common ground, table 2.1

- pedestrians and cyclists. The provision of new bus stops with a central refuge to aid crossing the lane would also provide convenient and safe facilities for bus passengers.
30. The proposed works would have some shortcomings, in that there would be a pinch point where the shared path crosses Little Rothley Brook, and neither the path nor the bus stops would be under passive surveillance⁴. The single point of access to the site and the single shared path into the village are also less than ideal, in that there would be no choice of routes unlike other parts of the village where there is greater permeability. However, none of these would seriously undermine the quality of the proposed highway facilities or significantly reduce their attractiveness to future users in accessing services and facilities in the village, or wider afield, including employment opportunities.
31. I conclude that, notwithstanding the shortcomings, accessibility to services and facilities sufficient to meet daily needs would be available to occupants of the proposed development by a range of travel modes other than the private motor car. Accessibility further afield to higher order services, facilities and employment opportunities would also be available by bus or bicycle. The proposal would therefore accord with Policy DM17 of the Development Management Plan, which seeks to minimise the need to travel and promotes sustainable forms of transport in new developments.

Heritage

32. There are two heritage assets which the development has the potential to affect. These are the grade II* Church of St Philip and St James⁵, and the Ratby Conservation Area. Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to preserving the architectural and historic interest of the church, and to preserve or enhance the character or appearance of the conservation area, respectively.
33. The significance of the church lies in its historic fabric, the earliest parts of which date from the 13th century, and also its setting in a prominent position on top of a hill in the centre of the village. Its immediate setting is defined by the churchyard, with its wider setting being established by the village (in particular the more historic parts of it) and beyond that to the surrounding countryside.
34. The significance of the conservation area lies in the historic buildings and road layout which make up the earliest part of the village, grouped around the church, along Main Street and the upper part of Station Road. The buildings reflect the change from a predominantly agrarian village to one that accommodated a mix of agricultural and early manufacturing uses within the historic core. The setting around the conservation area is now largely occupied by more modern development although playing fields abut it to the south and west, and views of surrounding countryside can be gained from the higher ground within it.
35. Neither of these heritage assets would be directly impacted by the proposed development, which would be separated from them by some distance. Views of the appeal site can be obtained from the church, and vice versa, although those views are filtered through the hedge and trees along the northern

⁴ Leicestershire Highway Design Guide 2022, part 3

⁵ List entry number 1074093

- boundary of the site. The illustrative development framework plan shows that it may be possible to retain some views of the church from the appeal site through site layout design, although that would be for the reserved matter stage and is not determinative of my conclusions on heritage matters.
36. Little of the appeal site can be seen from the conservation area, other than from the area immediately around the church. Desford Lane does form an approach to the conservation area, although only its easternmost end is identified as a view to be protected⁶, which is beyond the part of the lane that would be altered by the proposed highway works.
37. The loss of part of the countryside that can be seen from the church and that part of the conservation area that immediately surrounds it would have a minor adverse effect on their settings, in that it would lessen the historic relationship between the church and village and its agricultural hinterland. However, historically the church has always been surrounded by buildings rather than being reliant on an isolated, countryside setting. The same applies to the conservation area where its significance and special interest lies not only in its agrarian links but also to buildings associated with early forms of manufacture, none of which were reliant on agriculture.
38. Consequently, the limited impact to the wider settings of the church and conservation area identified above would amount to less than substantial harm to their significance. That impact would be towards the lower end of the range of such harm.
39. In such circumstances, paragraph 208 of the Framework says that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. It is common ground between the witnesses for both of the main parties that the public benefits arising from the provision of additional housing, including a proportion of affordable housing, would outweigh the less than substantial harm to the significance of both the church and the conservation area.
40. Irrespective of the level of harm caused, paragraph 205 of the Framework requires that great weight be afforded to a heritage asset's conservation. Having taken into account that great weight, and the statutory protection afforded to designated heritage assets, I am of the view that the public benefits of the development would easily outweigh the very limited harm caused to the significance of both the church and conservation area. Consequently, I conclude that the development would not conflict with Policies DM11 and DM12 of the Development Management Plan, which seek to protect the historic environment taking account of any benefits that might flow from development proposals.

Other Matters

41. The development would give rise to the loss of a small amount of best and most versatile agricultural land. The loss of agricultural land does not form a reason for refusal on the Council's decision notice although it is a matter raised in evidence. I was informed that almost all agricultural land in the borough falls within this category and therefore any housing development is likely to result in

⁶ Ratby Conservation Area Appraisal, 2014

such a loss. Given that to be the case, I consider that the loss of this relatively small parcel of land for agriculture would not cause any material difference to food production because such a loss is inevitable if the borough is to meet its housing requirements.

42. I heard evidence from interested parties that Ratby has expanded rapidly in recent decades and that has put strain on local facilities, in particular the primary school and increased traffic on the roads, as well as fears about the ability of the village to accommodate the rate of change in social terms.
43. While I understand the concerns expressed on these issues, it is a matter for service providers to respond to new development by providing improvements or additional capacity where necessary, rather than existing capacity being seen as a limiting factor on development, unless such improvements or additional capacity are not possible. In this case, no objection to the scheme has been raised by service providers, including the County Council in its roles as Highway Authority and Education Authority. A range of legal obligations and conditions agreed to by the appellants would also secure contributions towards the provision of education and highway improvements, as well as other services such as the library and maintenance of open space.
44. Social change is a more subjective matter. I appreciate that more housing will make the village a busier place with potentially a greater variety of people, and that some residents may regret the change from what was a smaller and perhaps more intimate scale of village in the past. However, more residents do also bring advantages, such as more participants in village sports clubs, and using local shops and businesses ensuring that they remain and thrive. Development of new housing, whether at Ratby or elsewhere in the borough, is necessary to meet demand and therefore change to the existing population is inevitable. I do not consider that change to be intrinsically harmful.
45. I was told that there have recently been instances of flooding in the local area. While that may be the case, so far as the proposed development is concerned there is a requirement that it incorporate a sustainable drainage system to avoid increasing surface water run-off from the site. It would not therefore worsen the current problems.
46. The issue of noise disturbance from the stoneworks has been raised. I do not consider that is of sufficient concern to prevent residential development taking place on the site, but I have imposed a condition requiring the potential for such noise disturbance to be assessed in more detail and for suitable mitigation to be incorporated in the layout and design of houses on the site if necessary.
47. There would be some temporary disruption during the construction period. However, that is common to almost all development and does not amount to a reason for dismissing the appeal. Conditions are imposed that would help minimise any disruption that might occur.

Planning Balance

48. 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.
49. 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.
50. For accessibility by means other than the private motor car, I have concluded that while there are some shortcomings to what is proposed, when taken in the round accessibility to services and facilities in Ratby would be acceptable. I have also concluded that while there would be less than substantial harm to heritage assets, that harm would be very limited and is outweighed by the public benefit of providing housing to meet demand. Both of these issues are of neutral weight in my decision.
51. Balanced against that conflict with Policy DM4 and the Framework, the proposal would result in a number of benefits. The principal benefits, already mentioned in connection with heritage assets, are the provision of new market and affordable housing. Those homes would help meet demand for housing, which both parties recognise is not being adequately met in the borough at the current time. I give both those benefits significant weight.
52. There would be economic benefits both in the short term during the construction period and afterwards through the spending power of future occupants to the local economy. There would also be a net gain in biodiversity. I give these benefits limited weight.
53. Open space and play equipment would be provided on site, as would contributions towards a range of off-site services and facilities such as education and the library service. While these facilities or improvements to services would be available to the general public, they are primarily intended to meet demand and serve the needs of future occupants. I therefore give them only limited beneficial weight.
54. The proposed development would have its own sustainable drainage system that would attenuate surface water run-off from the site such that it would be no greater than the existing greenfield run-off rate. I am satisfied that such a system would not worsen localised flooding that interested parties told me about at the inquiry. However, without having further details of the storage capacity of the system I am unable to say whether it would improve on the current situation. I therefore give this matter neutral weight.
55. In terms of housing land supply, it is necessary to consider the recent changes in national policy contained in the revised Framework. The Council is required to identify and update annually a supply of deliverable sites by virtue of paragraph 77, because it does not meet the criteria in paragraph 76. That requirement is for 5 years' worth of housing land, unless the provisions of paragraph 226 apply, in which case it is 4 year's worth. Paragraph 226 applies where an authority has an emerging local plan which has reached the Regulation 18 or 19 stage⁷ and includes both a policies map and proposed housing allocations. This provision is time limited to 2 years (ending December 2025).

⁷ Town and Country Planning (Local Planning) (England) Regulations 2012

56. In this case, the Council does have an emerging plan that has reached the Regulation 19 stage, and which does have a policies map showing housing allocations, albeit that map is incomplete because it does not show the geographical expression of other policies in the plan. However, the plan has not progressed to examination, and the Council has recently published a revised local development scheme⁸ which indicates that it intends to consider an alternative development strategy, extend the plan period to 2041 and carry out new Regulation 18 and 19 consultations before submission for examination by June 2025, with adoption expected in early 2026.
57. Although the present Regulation 19 plan has not been formally withdrawn, it is apparent that there is no intention to progress it in its current form. The purpose of the revised requirement in the Framework is to recognise those authorities which are progressing with plan making. Since the current Regulation 19 plan has stalled, and a revised version is not envisaged to be adopted for at least two years, I consider that the provisions of paragraph 226 do not apply in this case. That position is accepted by both main parties, including the Council, which is not seeking to rely on the provisions of paragraph 226.
58. In terms of housing land supply, the most recent published figure shows 4.89 years' supply available⁹. This includes a 5% buffer, which is no longer needed. However, I was offered no updated housing land supply calculation, and the position of the Council remains that it is unable to demonstrate a 5-year housing land supply. In such circumstances, for proposals involving the provision of housing, footnote 8 of the Framework deems the policies most important for determining the proposal to be out-of-date.
59. Where those policies are out-of-date, paragraph 11d) of the Framework says that planning permission should be granted unless specific policies in the Framework provide a clear reason for refusal, or any adverse impacts of the development would significantly and demonstrably outweigh the benefits.
60. In this case there are no specific policies in the Framework that provide a clear reason for refusal. Harm to designated heritage assets is capable of being such a specific policy, but here it is agreed that the limited harm caused to the church and conservation area is outweighed by public benefits and therefore does not amount to a clear reason for refusal.
61. 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.

Legal undertaking

62. The proposal is accompanied by a legal undertaking that secures a range of planning obligations. These include the provision of 40% affordable housing

⁸ Hinckley & Bosworth Borough Council Local Development Scheme 2020-2025, February 2024

⁹ Hinckley & Bosworth Borough Council Residential Land Availability Monitoring Statement 1 April 2021 – 31 March 2022

with agreed tenures, travel packs including bus passes, and financial contributions towards a traffic regulation order, education, health care, a civic amenity site, the library, improvement of a highway junction as part of the Coalville Transport Strategy, maintenance of on-site and off-site open space, and monitoring.

63. Having regard to the compliance statement submitted by the Council and the discussion that took place at the inquiry, I am satisfied that these obligations meet the requirements of Regulation 122 of the Community Infrastructure Regulations 2010 in that they are necessary, directly related to the development and fairly and reasonably related in scale and kind. No objection to them was raised by the appellants. I have placed weight on them in meeting policy requirements in the development plan and the additional demands the development would place on infrastructure and public services. The proposed highway improvements, which are critical in securing adequate accessibility to the site, are secured through Grampian conditions, which I consider below.

Conditions

64. I have considered the draft conditions against the tests in paragraph 56 of the Framework. I have imposed those which I consider meet the tests, subject to rewording and simplification in the interests of clarity, consistency and enforceability. They have also been reordered in accordance with the advice in the Planning Practice Guidance. The appellants confirmed their agreement to the inclusion of pre-commencement conditions at the inquiry pursuant to section 100ZA of the Town and Country Planning Act 1990.
65. Condition 1 is necessary to require submission of the reserved matters, and conditions 2 and 3 set time limits for their submission and the start of development. I have separated these for clarity. Condition 4 listing the approved drawings is needed for certainty.
66. Condition 5 is necessary to ensure any matters of archaeological interest are found and recorded.
67. Conditions 6, 14 and 15 are necessary to find and remediate any contamination that might exist on the site.
68. Condition 7 is required to control and mitigate any adverse effects during the construction period, including construction traffic. I have combined suggested conditions into one and simplified the requirements in the interests of clarity.
69. Conditions 8, 9 and 16 are necessary to ensure appropriate surface water drainage both during construction and long term. I have combined suggested conditions to include the surface water drainage system being designed to also avoid water draining onto the public highway.
70. Condition 10 is necessary to enable further consideration to be given to the position and design of the proposed pedestrian crossing to the north of the site in the vicinity of the health centre.
71. Conditions 11, 12, 13 and 24 are necessary to secure biodiversity net gain and ensure that the impact on wildlife is minimised.
72. Conditions 17, 18, 19 and 20 are necessary to ensure that the proposed on and off-site highway works are implemented and thereafter maintained. Condition

- 21 requires a travel plan to be approved to encourage future occupants to use means of transport other than the motor car.
73. Condition 22 is necessary to support good quality, up-to-date communications.
74. Condition 23 is necessary to minimise noise disturbance to future occupants and condition 25 is necessary to ensure healthy lifestyle features are incorporated into the detailed layout and design of the development.
75. Condition 26 is necessary to control the times of construction activities in the interests of neighbouring occupants.
76. I have not imposed a condition referring to the development framework plan, as that is submitted for illustrative purposes only. I have not imposed conditions relating to retention of hedges, replacement of damaged planting, ground levels and bin storage as these are more appropriately considered as part of the reserved matters details. I have also not imposed a condition restricting permitted development rights for domestic gates and other means of enclosure as there is no clear justification to do so. To impose such a condition would conflict with paragraph 54 of the Framework.

Conclusion

77. I conclude that the development would conflict with Policy DM4 of the Development Management Plan, and would therefore conflict with the development plan when taken as a whole. However, there are important material considerations, in particular the 'tilted' balance arising from the Framework that indicates that planning permission should be granted, and the benefits of providing housing in an area where that need is not currently being met. These material considerations outweigh the conflict with the development plan.
78. Consequently, I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

Appearances

For the appellants:

Martin Carter	Counsel
Silke Gruner BHons LA CMLI	Director (Landscape), Icen Projects
Rosey Meara MA (Hons) PGCert MCIfA	Associate Consultant, CSA Environmental
Ben Jackson BEng (Hons) MSc MCIHT	Director, Ashley Helme Associates Ltd
Peter Dutton BA (Hons) MCD MRTPI	Planning Manager, Gladman Developments Ltd

For the Council:

Hugh Richards	Counsel
Simon Neesam BA (Hons) DipLA CMLI	Director, The Landscape Partnership Ltd
Andrew Gray MSc MRTPI MSc MIED	Associate Director, Aitchison Raffety
Tim Hartley BA (Hons) MRTPI	Team Leader Development Management, Hinckley & Bosworth Borough Council

Interested parties:

Cllr Ozzy O'Shea JP	Grobby & Ratby Division and Ratby, Bagworth & Thornton Ward
Cllr Chris Boothby	Ratby, Bagworth & Thornton Ward
Dr Andrew Simmonds	Local resident
Stephen Boud	Local resident
Graham Stanley	Local resident

Documents

Documents relating to the inquiry can be found at: [About the inquiry | Public inquiry: land off Desford Lane, Ratby | Hinckley & Bosworth Borough Council \(hinckley-bosworth.gov.uk\)](https://hinckley-bosworth.gov.uk/about-the-inquiry/public-inquiry-land-off-desford-lane-ratby)

Documents received during or after the inquiry are as follows:

1. Copy of draft legal undertaking
2. Draft conditions
3. High Court judgement: Monkhill Ltd v SSHCLG [2019] EWHC 1993 (Admin)
4. Appeal Court judgement: Monkhill Ltd v SSHCLG [2021] EWCA Civ 74
5. Plan of cycling route to Leicester
6. High Court judgement: Bramley Solar Farm Residents' Group v SSLUHC and others [2023] EWHC 2842 (Admin)
7. Opening statement on behalf of the appellants
8. List of appearances for the appellants
9. Opening statement on behalf of the Council
10. Speaking notes for Dr Andrew Simmonds
11. Revised local development scheme 2020-2025 dated February 2024
12. Minute 231 of Council meeting 13 December 2022 relating to revision of local development scheme 2020 to 2025 dated October 2022
13. CIL compliance statement by Council
14. Leader of the Council's position statement at Council meeting 6 September 2022 including reference to local plan
15. Regulation 19 draft plan
16. Policies map published with Regulation 19 draft plan
17. Inset map for Ratby published with Regulation 19 draft plan
18. Closing submissions on behalf of the Council
19. Closing submissions on behalf of the appellants
20. Speaking notes for Graham Stanley
21. Copy of completed legal undertaking.

Schedule of 26 conditions:

1. No development shall commence until details of layout, scale, appearance, landscaping and internal 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.
2. Application for approval of the reserved matters shall be made within 3 years of the date of this permission.
3. The development hereby permitted shall begin not later than 3 years from the date of this permission or not later than 2 years from the date of the approval of the last of the reserved matters to be approved, whichever is later.
4. Other than as may be approved in condition 10, the development hereby permitted shall be carried out in accordance with the following plans:
Site location plan – CAS/5249/108 Rev B
Proposed access strategy – 1726/16 Rev E
Proposed access arrangements 1726/15 Rev H
Proposed toucan crossing – 1726/19 Rev C
5. No development shall commence until a scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the nomination of a competent person or organisation to undertake the approved scheme, and a programme of site investigation, recording and publication of post-investigation analysis. The scheme of archaeological investigation shall be carried out in accordance with the approved programme.
6. No development shall commence until a scheme for the investigation and mitigation of any contamination at the site has been submitted to and approved in writing by the Local Planning Authority. The scheme of investigation and mitigation shall be implemented in accordance with the approved details prior to occupation of the development.
7. Prior to the commencement of development a construction environmental management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall detail how, during site preparation and construction, the impact on neighbouring properties and the environment shall be minimised or mitigated from dust, odour, noise, smoke, light or other sources of pollution. The plan shall also detail how construction traffic will be managed including routing of construction traffic, wheel cleaning and parking. The plan shall detail how such controls will be monitored and shall include a procedure for the investigation of and response to complaints. The construction environmental management plan shall be implemented in accordance with the approved details.
8. Prior to the commencement of development details of a surface water drainage system shall be submitted to and approved in writing by the Local Planning Authority. The details shall include how surface water will be prevented from draining onto the public highway. The surface water

drainage system shall be implemented in accordance with the approved details prior to occupation of the development.

9. Prior to the commencement of development a system for the management of surface water drainage during site preparation and construction shall be submitted to and approved in writing by the Local Planning Authority. The system for the management of surface water drainage shall be implemented in accordance with the approved details, and maintained in working order throughout site preparation and construction.
10. Notwithstanding plan 1726/19 Rev C in condition 4 (approved plans), prior to commencement of development a scheme for a pedestrian crossing north of the site on Desford Lane in the vicinity of the health centre shall be submitted to and approved in writing by the Local Planning Authority. The approved pedestrian crossing shall be installed prior to occupation of the development.
11. Prior to the commencement of development a biodiversity net gain plan ensuring a net gain in biodiversity of at least 10% shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of baseline habitat data, habitat creation and/or enhancement, a timetable for implementation, a habitat management and monitoring plan with measures for remediation if required, and if necessary details of biodiversity off-setting and its long-term management and monitoring. The plan shall be implemented in accordance with the approved details.
12. Prior to occupation of the development, a landscape and ecological management plan, including long term objectives, management responsibilities and maintenance schedules for all landscape areas other than privately owned domestic gardens shall be submitted to and approved in writing by the Local Planning Authority. The landscape and ecological management plan shall be carried out in accordance with the approved details.
13. Prior to occupation of the development, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall include a layout plan with beam orientation and the design and location of the lighting equipment demonstrating how external lighting will minimise harm to protected species and their habitats. The external lighting shall be installed and operated in accordance with the approved details.
14. 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 and mitigation of contamination at the site has been submitted to and approved in writing by the Local Planning Authority detailing how the contamination is to be remediated. The remediation works approved shall be carried out prior to the occupation of the development.
15. Within 3 months of the completion of any mitigation or remediation works approved pursuant to conditions 6 and 14, a verification report shall be submitted and approved in writing by the Local Planning Authority. The verification report shall be written by a suitably qualified person or

organisation and shall include details of the mitigation or remediation works, post-remedial sampling, disposal of waste and quality assurance certificate(s) to demonstrate that the mitigation or remediation works have been carried out in accordance with the scheme of investigation and mitigation approved pursuant to conditions 6 and 14.

16. Prior to occupation of the development a plan for the long-term maintenance of the surface water drainage system approved pursuant to condition 8 shall be submitted to and approved in writing by the Local Planning Authority. The maintenance plan shall include responsibilities and schedules for routine maintenance, monitoring and remedial action if required of the drainage system, and procedures to be implemented in the event of pollution of surface water on the site. The surface water drainage system shall be maintained in accordance with the approved maintenance plan.
17. Prior to occupation of the development the access arrangements shown on approved plan 1726/15 Rev H shall be implemented in full.
18. Prior to occupation of the development the offsite highway works detailed on approved plan 1726/16 Rev E including the shared use footway/cycleway along Desford Lane, realignment of part of Desford Lane, bus laybys, pedestrian refuge and gateway feature but excluding the pedestrian crossing north of the site on Desford Lane in the vicinity of the health centre, shall be implemented in full.
19. Prior to occupation of the development vehicular visibility splays of 2.4m x 120m to the right of the site access and 2.4m x 118m to the left of the site access shall be provided. The visibility splays shall thereafter be maintained free from obstruction above a height of 0.6m measured from the level of the adjacent footway, verge or carriageway.
20. Prior to occupation of the development vehicular visibility splays to existing accesses 1, 2 and 3 as detailed on Jackson drawing 2112 Rev D shall be provided. The visibility splays shall thereafter be maintained free from obstruction above a height of 0.6m measured from the level of the adjacent footway, verge or carriageway.
21. Prior to occupation of the development a travel plan shall be submitted to and approved in writing by the Local Planning Authority. The travel plan shall be implemented in accordance with the approved details.
22. Prior to occupation of the development a full fibre broadband connection shall be made available and ready for use for each dwelling.
23. Layout and appearance reserved matters shall include a noise investigation and mitigation strategy detailing how occupants of dwellings on the site will be protected from adverse noise effects arising from the adjacent Stonecroft works. The development shall be implemented in accordance with the approved noise investigation and mitigation strategy prior to occupation of the development.
24. Layout and landscaping reserved matters shall include details of how the recommendations of the SCA Ecological Impact Assessment CSA/5249/05,

dated September 2021, have been incorporated. The details so incorporated shall be implemented in accordance with approved layout and landscaping plans.

25. Any reserved matters application shall include a Building for a Healthy Life Assessment which shall demonstrate how the development accords with best practice requirements set out in the Building for a Healthy Life document.
26. Site preparation and construction shall be limited to the following hours:
Monday – Friday: 07:30 – 18:30
Saturday: 08:00 – 13:00
There shall be no site preparation or construction on Sundays, bank or public holidays.

* * * End of conditions * * *