

## PLANNING STATEMENT

Proposal: Demolition of existing light industrial/storage barn and erection of one self build dwelling.

Site: Lodge Farm, Market Bosworth Road, Dadlington, CV13 6DH

Date: May 2025

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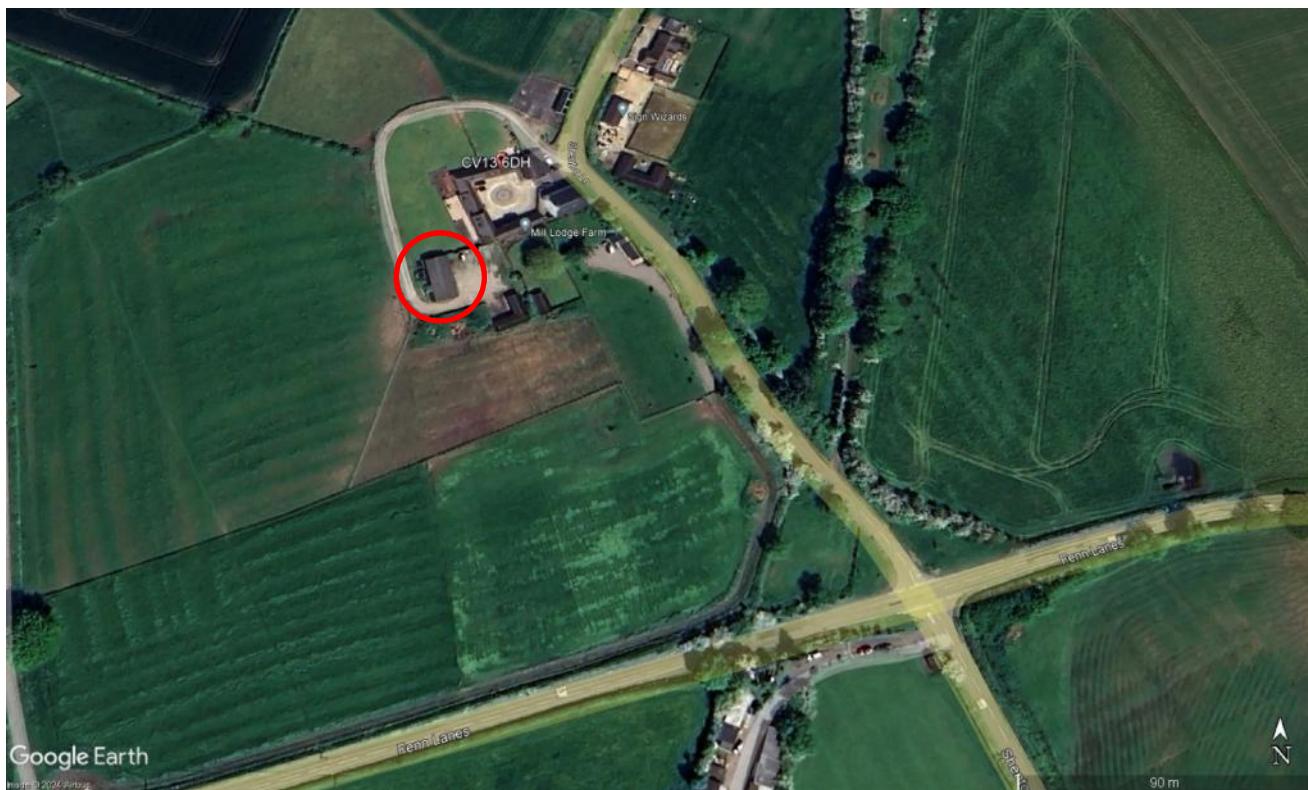
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## INTRODUCTION

- 1.1 This planning statement is submitted in support of the application made to Hinckley and Bosworth Borough Council for full planning permission for the demolition of an existing light industrial/storage building and the erection of one self build dwelling at Lodge Farm, Market Bosworth Road, Dadlington, CV13 6DH. The application is made on behalf of Mr and Mrs M Burgess.
- 1.2 The following paragraphs of this statement will address the relevant development plan policy and national planning policy guidance pertinent to the determination of the application and set out the reasons why planning permission should be supported.

## 2 DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 2.1 The application site relates to an existing building located at Lodge Farm, with an established lawful use for light industrial/storage purposes. The building already benefits from extant planning permission for conversion to residential purposes (24/00624/FUL). The building is part of what was originally a farmstead comprising a main farmhouse and a series of former agricultural buildings since converted to residential use. The site is accessed from Shenton Lane and is approximately 0.5 miles north of the village of Dadlington.
- 2.2 The building the subject of this planning application is identified on the aerial image below shown encircled red.



- 2.3 The site is not a listed building. The site is located within the Registered Bosworth Battlefield site.
- 2.4 The site is located within a Flood Zone 1 on the Environment Agency's flood maps for planning.

2.5 The existing structure has a very simple design with a timber clad exterior finish and corrugated metal sheet roof. The building sits on a large area of hardstanding. The building is accessed via a private drive extending from Shenton Lane which passes beyond the northern boundaries of the neighbouring residential properties known as The Dairy and The Mill.



### 3 RELEVANT PLANNING HISTORY

- **24/00624/FUL** | Conversion of existing barn (currently in use for light industrial/storage) to Class C3 dwelling (Self-Build) | GRANTED
- **23/00617/CLE** | Lawful Development certificate for existing use of barn as light industrial/storage (Class B) | GRANTED

#### 4 DESCRIPTION OF THE PROPOSAL

4.1 The application proposes the demolition of the existing structure and the erection of one, three bedroom dwelling. The main living accommodation is provided on the ground floor with a first floor mezzanine snug, dressing room and open void above. Extract copies of the proposed elevation plans are provided below.



4.2 The architectural design and scale of the new dwelling is not dissimilar to the previously approved conversion scheme. The new build has a slightly increased ridge and eave height when compared to the existing building and this is proposed in order to accommodate the first floor mezzanine level. The increase is indicated on the proposed plans with dashed red lines.

4.3 The architectural design of the new dwelling retains the existing character and agricultural impression of the building. The materials palette is also consistent with the previously approved conversion scheme. Extract copies of the approved conversion scheme are shown below for comparison purposes.

4.4 The existing access driveway is to be utilised by the new dwelling. The existing area of car parking within the courtyard to the east of the building will be retained for the residential use.

#### Extant Conversion Scheme 24/00624/FUL

4.5 The proposed dwelling is a self-build dwelling (hereafter referred to as 'SBCH') for the applicant and his wife.



## **5 THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS**

5.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 an application for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan currently comprises the adopted Hinckley and Bosworth Core Strategy and the Site Allocations and Development Management Policies DPD. The NPPF is a key material planning consideration in the determination of the application.

### **5.2 Core Strategy (2009)**

The adopted Hinckley and Bosworth Core Strategy provides the spatial vision for the Borough.

#### The Hinckley and Bosworth Site Allocations and Development Management Policies DPD (SADMP)(2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM12: Heritage Assets
- Policy 13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Car Parking

### **5.3 National Planning Policies and Guidance:**

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

### **5.4 Other guidance:**

Good Design Guide (2020)

## **6 POLICY ASSESSMENT**

### **6.1 The Key Issues are:**

- Principle of development
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Heritage Assets
- Landscaping, ecology and biodiversity
- Drainage and flood risk
- Self and Custom Build Housing
- Planning balance and overall conclusions

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## 6.2 **Principle of development**

6.2.1 Paragraph 2 of the National Planning Policy Framework (NPPF) (2024) states: planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

6.2.2 Paragraph 11 of the NPPF and **Policy DM1** of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with an up to date development plan should be approved without delay. Where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, para 11(d) 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.

6.2.3 The spatial distribution of growth across the Borough is set out in the adopted Core Strategy and this identifies housing allocations in a hierarchy of settlements. The application site is not located within a settlement but is instead situated within the countryside where Policy DM4 of the SADMP applies.

6.2.4 **Policy DM4** states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where it meets one of the exceptions listed under criterion a) to e) and meets with policy objectives (i) to (v).

6.2.5 It is acknowledged that Policy DM4 limits the circumstances where new dwellings will be supported to categories falling within (b) change of use or re-use of existing buildings or (e) the provision of accommodation for a rural worker. As a new build project, this application does not fall within either of those categories and there is an identified conflict with the policy as a result. Notwithstanding that, however, it is worth highlighting that Policy DM4 is silent over the redevelopment of previously developed land (which is a key national planning policy objective). In this case, not only is the site previously developed (i.e. with an established light industrial and storage use), there is also an extant planning permission in place for the conversion of the existing building to provide a dwelling on this site. This extant planning permission is the established lawful fallback position for the delivery of one new dwelling on this site.

6.2.6 It is a well-established principle that when determining applications for planning permission the presence of a fall-back position (whether that be secured by an extant planning permission or permitted development rights) should be considered by the decision maker. A comparison should be drawn between what has been applied for and what can be done if planning permission is not granted for it. The decision maker must then, as a matter of planning judgement, conclude what weight is given to the material consideration in the overall planning balance and decision making.

6.2.7 The relevant legal principles relating to a fallback position were set out in R v Secretary of State for the Environment and Havering BC<sup>1</sup>. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fallback test:

*"First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly if the answer to the second question is "yes" a comparison must be made between the proposed development and the fallback use."*

6.2.8 The notion of a Class Q fallback position was subsequently and comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and Malling Borough Council<sup>2</sup>. The Mansell case concerns an appeal decision dismissing a claim for judicial review of a planning permission granted by Tonbridge and Malling Borough Council, the development being the demolition of a barn and bungalow and the construction of four detached new build dwellings with garages and gardens. Lindblom LJ confirmed the legal considerations in determining the materiality of a fallback position as a planning judgement are:

- the basic principle is that for a prospect to be a "real prospect", it does not have to be probable or likely; a possibility will suffice;
- there is no rule of law that, in every case, the "real prospect" will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO.

He then concluded that the clear desire of the landowner to develop and maximise the value of the site was sufficient to demonstrate there was a real prospect. Whilst the application site does not benefit from a Class Q, it does benefit from a detailed planning permission for a conversion scheme.

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<sup>1</sup> (1998) EnvLR189

<sup>2</sup> [2017] EWCA Civ 1314

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6.2.9 It is well established in case law, that where there is a realistic prospect of either a full plans or permitted development right scheme being implemented, and where an alternative proposal would normally conflict with the development plan, insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the local planning authority.

6.2.10 In this case, it has been established through a detailed planning permission for a conversion scheme that the site can be delivered for one new dwelling. There a realistic prospect of a fallback position for the same number of dwellings, in the same location. It is submitted, the materiality of the fallback position should be given significant weight in the overall decision making process.

6.2.11 **Policy DM4** also requires development:

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

With regard to criterion (i):

The proposal replaces an existing building and effectively seeks to substitute a conversion scheme for a new build development. As identified at section 4 above, the overall architectural design and scale of the new dwelling is not dissimilar to the extant planning permission. The chosen materials palette is also consistent with the previously approved conversion scheme. The proposals retain the existing character and agricultural impression of the building and its setting. The development would not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside as a result.

With regard to criterion (ii) and (iii):

The development replaces an existing building within an established curtilage and does not cause any countryside encroachment; the proposal does not undermine the physical and perceived separation and open character between settlements; nor exacerbate ribbon development.

With regard to criterion (iv) and (v):

The site is not located within a Green Wedge or the National Forest and does not cause harm to either of these objectives.

6.2.12 It is worthwhile highlighting that **Policy DM14** of the SADMP relates to replacement dwellings in the rural area. Policy support is provided for the demolition and rebuild of existing dwellings outside of the settlement boundaries where:

- a) It leads to an enhancement of the immediate setting and general character of the area; and
- b) The new dwelling is proportionate to the size, scale, mass and footprint of the original dwelling and situated within the original curtilage; and
- c) The proposed development accords with Policy DM10: Development and Design, DM11: Protecting and Enhancing the Historic Environment and DM12: Heritage Assets.

Whilst the current planning application would not meet with the strict interpretation of Policy DM14 because the building has not yet been converted to a dwelling, the existence of the approved conversion scheme is a strong fall-back position. The proposed new dwelling would not amount to an additional dwelling in the countryside beyond that which could be implemented as part of conversion works previously approved. The design of the development is consistent with the extant conversion scheme which has already been judged to provide an enhancement to the site and its immediate setting (criterion a); the dwelling is proposed on the footprint of the existing, within the same curtilage and the overall size, scale and mass is not dissimilar (criterion b); and for the reasons set out later in this statement the proposals do not cause conflict with criterion c with regard to Policy DM10: Development and Design, DM11: Protecting and Enhancing the Historic Environment and DM12: Heritage Assets. The proposals do not cause conflict with or frustrate the overall objectives of Policy DM14.

6.2.13 A new build property is more cost efficient in terms of build cost and is likely to be more sustainable over the lifetime of the development. This is primarily because there are limitations on the improvements that can be achieved in the energy performance of refurbished buildings which cannot match those achieved by well-designed new builds with good thermal properties. Consequently, lifetime emissions of CO2 in new build developments are often lower. New build developments are also required to meet higher standards of u-value, ventilation and thermal performance under current Building Regulation requirements when compared to conversion scheme projects. This is considered to be a benefit of the new build proposal when compared to the fallback position of the conversion scheme.

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6.2.14 Having considered the development plan; relevant material planning considerations, comprising the lawful fallback position and relevant case law, it is concluded the principle of development is acceptable.

6.3 **Design and character**

6.3.1 **Policy DM10(c)** of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. **DM10 (d)** states: the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the local area generally.

6.3.2 As already referenced, the design, architectural detailing and choice of materials are consistent with the extant planning permission for the conversion scheme which was previously considered to offer an enhancement to the site; create a contemporary and high quality living space whilst still maintaining the rural impression of the building. The new build does include a slightly increased ridge and eave height in order to accommodate the first floor mezzanine level. However, the increase is unlikely to appear as an appreciable or noticeable change when viewed in the context of the site. The new build offers improvements in terms of build and energy efficiency when compared to a conversion scheme which is another important aspect of design quality. The proposals do not cause any conflict with the design objectives of Policy DM10(c) or (d) of the SADMP.

6.4 **Residential amenity**

6.4.1 Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.

6.4.2 **Policy DM10(a) and (b)** of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.

6.4.3 The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.

6.4.4 The immediate surrounding land uses are residential and the residential use of the site is already established. The position and orientation of the building in relation to the neighbouring properties mean there are no concerns for facing windows, privacy issues or overshadowing. The courtyard to the east of the building is large enough to provide some private amenity space and there are open views of the countryside to the west. The design delivers a high quality living environment for the applicants without adversely impacting the amenity of existing residents. The proposals do not cause any conflict with DM10 (a) and (b).

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6.5 **Highway safety**

6.5.1 **Policy DM17** of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety.

6.5.2 **Policy DM18** of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.

6.5.3 Access to the site is taken from the existing roadway serving the current light industrial/storage use of the building. There is ample space within the site to provide car parking and turning space for residential vehicles. The vehicular access and car parking arrangements are consistent with the extant planning permission. It is considered that the proposed development would be in accordance with Policies DM17 and DM18 of the SADMP.

6.6 **Historic Environment**

6.6.1 The application building is located within the Registered Bosworth Battlefield area. **Policies DM11 DM12 and DM13** seek to protect heritage assets, historic landscapes and archaeology.

6.6.2 Development proposals within or adjacent to the historic landscape of Bosworth Battlefield should seek to better reveal the historic significance of the area. Proposals which adversely affect the Bosworth Battlefield or its setting should be wholly exceptional and accompanied by clear and convincing justification. Such proposals will be assessed against their public benefits. Particular regard will be had to maintaining topographical features, archaeological remains or to the potential expansion of the Battlefield.

6.6.3 The application proposes a replacement building, which retains the architectural character of the site. Farming and its associated infrastructure are generally considered to form part of the character and significance of the Bosworth Battlefield. As already described, the site is part of what was once a farmstead of agricultural buildings which have since been re-purposed for residential use; or in the case of the application building for light industrial/storage use. By adopting a design approach which retains, enhances and complements the agricultural impression of it, the proposal does not have a harmful impact upon the historical significance of the historic farming landscape and Bosworth Battlefield.

6.6.4 The site is previously developed and the proposals are located over the footprint of the previously disturbed site. Condition 4 of the extant planning permission 24/00624/FUL is a pre commencement planning condition requiring the submission of a written scheme of investigation (WSI). Such a condition can be imposed on the new planning permission to ensure compliance with Policy DM13 if this is considered necessary and reasonable.

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6.7 **Trees, landscaping and biodiversity**

6.7.1 **Policy DM6** of the adopted SADMP seeks to conserve and enhance features of nature conservation value and retain, buffer or manage favourably such features.

6.7.2 The proposal relates to the demolition and replacement of an existing building, and area of existing hardstanding. There are no landscape features impacted by the proposed development.

6.7.3 As the proposals include demolition the application pack includes a Preliminary Bat Roost Assessment and Bird Survey. There was no evidence of birds nesting in the building. There is no evidence of bats using the buildings as a place of shelter. There is a roosting opportunity between the rear of the timber cladding and the breathable roofing membrane beneath. This provides a moderate place of shelter for small numbers of crevice dwelling bats. One dawn survey has been undertaken to determine if bats are using these crevices as a place of shelter. Two Common pipistrelle bats were observed returning to roosts in the building under the timber cladding. A license from Natural England will be required to undertake the development should planning permission be granted. The number of bats is small and the Bat Mitigation Class license can be used. A new bat roosting opportunity can be created by installing an integrated bat box into the gable elevation of the new dwelling, to meet the requirements of the National Planning Policy Framework and this has been identified in the supporting documentation.

6.7.4 With reference to BNG requirements, Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 sets out that every planning permission granted for the development of land in England shall be deemed to have been granted subject to the 'biodiversity gain condition' requiring development to achieve a net gain of 10% of biodiversity value. This is subject to a number of exemptions. The exemptions include:

- Developments below the threshold

A development that does not impact a priority habitat and impacts less than:

- 25 square metres (5m by 5m) of on-site habitat
- 5 metres of on-site linear habitats such as hedgerows

The development is proposed over the footprint of an existing building and on land already laid to hardstanding. The only part of the building which is not existing hardstanding relates to the small plant room projection. The plant room only equates to an area of 6.73m<sup>2</sup> of additional built footprint. The plant room is located on an area of land currently used as residential garden land at The Mill and is not a priority habitat. The new development impacts less than 25m<sup>2</sup> of amenity garden land and does not impact any linear habitats. The development would thus fall within the category of development falling below the threshold.

- Self-build and custom build applications

An exemption applies to this type of development when it meets all the following conditions:

- consists of no more than 9 dwellings
- on a site that has an area no larger than 0.5 hectares
- consists exclusively of dwellings that are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015

The dwelling is also a self build project for the applicant and his wife. It is for one dwelling, is on an area below 0.5Ha and is exclusively for a property falling within the definition of section 1(A1) of the Self-build and Custom Housebuilding Act 2015.

The development therefore falls within two of the exemptions for BNG.

6.7.5 The proposals provide opportunity for some new on site landscaping within the vicinity of the dwelling. It is submitted the final details of soft landscaping can be secured by planning condition if necessary.

6.8 **Drainage and flood risk**

6.8.1 **Policy DM7** of the adopted SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding by being located away from areas of flood risk unless adequate mitigation is provided in accordance with National Policy.

6.8.2 The site is in Flood Zone 1. The existing building is in use with surface water drainage to a soakaway. It is proposed that foul drainage will be a Klargest. There are no flood risk or drainage impacts to prevent the development.

6.9 **Self and Custom Build Housing**

6.9.1 Section 1 of the Self-Build and Custom Housebuilding Act defines self-build and custom housebuilding as the building or completion of houses by individuals, associations of individuals, or persons working with or for individuals or associations of individuals to be occupied as homes by those individuals.

6.9.2 As referenced earlier in this statement, like the extant planning permission for the conversion scheme, the proposed dwelling is a self-build dwelling for the applicant and his wife. They have both had full input into the design of the proposals and it is to be occupied by them as their own home.

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6.9.3 Paragraph 63 of the NPPF states that the need, size, type, and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups include (but are not limited to) those wishing to commission or build their own homes.

6.9.4 Section 2A of the Self-Build and Custom Housebuilding Act places a statutory duty on the Local Planning Authority to give permission to a sufficient number of self build and custom housebuilding developments on serviced plots to meet the demand for self-build and custom housebuilding in the Authority's area. Not only is there currently a shortfall between demand and supply for SBCH plots in the HBBC area; the adopted development plan is also silent on their provision. There are numerous appeal examples in which very significant weight has been given to shortfalls in supply particularly in situations where the Development Plan is silent on SBCH and the resulting policy vacuum in securing the delivery of SBCH in order to comply with what is a statutory obligation.

6.9.5 It is submitted that the absence of policy on SCBH and the identified shortfall in supply against demand that this has significant weight in the planning balance in favour of the grant of planning permission.

6.10 **The Planning Balance and Overall Conclusions**

6.10.1 The new National Planning Policy Framework (NPPF) was published 12th December 2024. It applied immediately to planning application decisions. The NPPF requires local planning authorities to identify a supply of deliverable sites sufficient to provide a minimum of five years' worth of housing against either:

- The housing requirement in its adopted Local Plan; or
- Against Local Housing Need calculated using the government's standard method where the plan is more than five years old, unless the plan has been reviewed and found not to require updating.

Both the adopted Core Strategy and the SADMP are over 5 years old and so the second bullet point applies. The new NPPF gives an increased Local Housing Need figure of 649 homes per year for HBBC. This does not include the additional provision to take into account the duty to cooperate in assisting with the delivery of homes to meet Leicester City's unmet need.

The housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date and furthermore, HBBC is unable to demonstrate a deliverable five year supply of housing to meet the new LHN. Within the Statement of Common Ground submitted under the recent planning appeal APP/K2420/W/24/3348387 (relating to Land East of The Common, Barwell) HBBC conceded it has a 3.55 year supply.

6.10.2 The 'tilted' balance in Paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

6.10.3 For the reasons already set out in this statement, the proposed development is considered to be acceptable on its own merits and in compliance with the development plan and NPPF when read as a whole. Further, no adverse impacts or technical reasons have been identified to outweigh the benefits or prevent the development from proceeding. The presumption in favour of development applies and planning permission should be supported without delay.