

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 & MRS WARNER

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR THE PROPOSED
ERECTION OF A SINGLE STOREY SELF-BUILD/CUSTOM-BUILD DWELLING
(RESUBMISSION OF 23/00923/FUL)**

AT

**THE WHITE HOUSE, BOSWORTH ROAD, WELLSBOROUGH,
LEICESTERSHIRE, CV13 6PB**

HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE

24/00322/FUL

THE PLANNING INSPECTORATE REFERENCE

APP/K2420/W/25/3367383

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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 planning permission for the provision of a single-storey, three-bedroom, self-build and custom house-build dwelling on land to the northeast of The White House, Bosworth Road, Wellsborough.

2. DESCRIPTION OF THE APPEAL SITE AND THE PROPOSAL

The Appeal Site

- 2.1. The 0.25ha appeal site is located to the north of Bosworth Road outside of any identified settlement boundary in the designated countryside. The appeal site is in an isolated location 1.5km west of the identified settlement boundary of Market Bosworth and 1.7km east of Wellsborough, which is not recognised as a settlement within the adopted Core Strategy (2009).
- 2.2. The appeal site is located within the Sence Lowlands Character Area within the Council's Landscape Character Assessment (LCA) (2017) which comprises flat-to-gently-rolling lowland vale landscape that gives rise to extensive and open views. The key sensitivity and value of this landscape area is the rural character and a lack of significant intrusions or light pollution, which result in a sense of 'remoteness' and tranquillity.
- 2.3. The appeal site comprises land that is outside of the residential curtilage of, but within the wider residential garden area associated with, The White House. The wider White House site is not within the red line boundary of this appeal. Currently, the appeal site features one small timber shed, a smaller corrugated steel outbuilding and numerous mature trees and hedging along its boundaries.
- 2.4. An outbuilding that is ancillary to the existing dwelling was approved in a similar location to the proposed appeal development via planning permission 21/01121/FUL for garden storage, a workshop, and a studio. The scheme has not been implemented and the planning permission has since expired.
- 2.5. The White House itself is located 44.5m to the south-west of the appeal site and is accessed via a separate private drive from Bosworth Road. Bosworth Road is an adopted and classified 'C' road that is subject to the National Speed Limit. The land gradually rises from Bosworth Road towards The White House and the appeal site. With the exception of The White House, the appeal site is verdant in nature and is wholly surrounded by open agricultural fields.
- 2.6. Public Footpath T10 runs immediately to the northeast, and southeast of the appeal site, and is separated from the proposed development by an existing mature deciduous hedgerow along the perimeter of the eastern boundary of the site. This mature hedgerow leads down to the existing field access on Bosworth Road.

- 2.7. The hedgerows adjacent to the new proposed entrance to the site are identified as 'Bosworth Road' hedgerows, which are considered to be a Local Wildlife Site (LWS).
- 2.8. Public Footpath S78, runs in a northerly direction approximately 100m to the north-west of the appeal site. Hoo Hills Farm is over 500m to the west of the appeal site, and there are two dwellings, Byron's Court and The Lake House, which are 177m south and 360m southeast of the site respectively on the other side of Bosworth Road. These two existing dwellings are separated by Botany Spinney.

The Appeal Proposal

- 2.9. This appeal proposal seeks full planning permission for the provision of a single-storey, three-bedroom, self-build dwelling on land to the northeast of The White House, Bosworth Road, Wellsborough.
- 2.10. The appeal proposal is bounded by brick walls and is described as a 'walled garden' design. The development has an unusual polygon shape that bounds the residential garden of The White House. The scheme externally measures 28.5m in width by 29.6m in depth, which creates a total footprint of 472.6sqm. At its highest, the principal elevation is 3.7m, which reduces to 3.1m on the rear elevation of the property.
- 2.11. The scheme is primarily constructed with Imperial Olde Reclamation Shire facing brickwork, but the principal south-eastern elevation features a partial black steel Fretwork Rainscreen cladding panel, the eastern side elevation utilises an Ibstock natural blue linear facing brick, and the northern rear elevation incorporates Corten steel rainscreen cladding. The flat roof of the structure features a sedum green roof system.
- 2.12. The site is accessed via a new 241m long and 815.3sqm surfaced private track, which utilises a new replacement access that was previously approved as an agricultural vehicular access via 20/01095/FUL, which is accessed from Bosworth Road. This previous planning permission was not implemented and has since expired. Within this current proposal, the existing field access on to Bosworth Road, which lies to the east, is subsequently closed, and new planting has been proposed on the eastern side of the new access, but the details of the new proposed planting have not been confirmed.
- 2.13. To facilitate this development, Paragraph 4.1.1 of the Arboricultural Impact Assessment (AIA) confirms that nine individual trees and a group of trees are removed from the site, and two groups of trees and one hedgerow is partially removed from the site. The submitted Tree Retention and Removals Plan demonstrates that two further hedges are also removed from the site.

3. SITE HISTORY

3.1. 23/00923/FUL

- Construction of single storey self-build dwelling
- Withdrawn
- 05.01.2024

This application was withdrawn following the Local Planning Authority's intention to refuse the development due to: the scheme's unsustainable location and its subsequent environmental harm; its significant harm to the countryside; its detrimental effect to the residential amenity of the future occupiers of the scheme as a result of poor visual outlook; and a failure to demonstrate an appropriate level of information regarding the trees within the site and the resultant impact this was likely to have on the character of the area if the trees were lost.

3.2. 21/01121/FUL

- Proposed outbuilding to provide garden storage, workshop and studio.
- Permitted
- 09.03.2022

3.3. 21/00489/HOU

- Proposed outbuilding
- Withdrawn
- 17.04.2023

3.4. 20/01095/FUL

- Replacement vehicular access
- Permitted
- 06.01.2021

3.5. 15/00612/FUL

- Two storey extensions and alterations to the existing property including the creation of an ancillary building to create a swimming pool
- Permitted
- 28.07.2015

3.6. 14/00255/FUL

- Extensions and alterations to dwelling and the formation of annex including the erection of a detached garage
- Permitted
- 29.07.2014

4. NATIONAL POLICIES

- 4.1 National Planning Policy Framework (NPPF) (2024).
- 4.2 National Planning Practice Guidance (PPG).
- 4.3 National Design Guide (NDG) (2019)
- 4.4 It is noted that the NPPF was revised after the production of the Committee Report for this appeal proposal. However, members of the Committee determined the proposed development on the latest version of the NPPF, which was supported by additional Officer comments within the Late Items Report (cf. Appendix A).

5. LOCAL POLICIES

- 5.1 The Development Plan policies referred to for the purposes of the application were:
- 5.2 Core Strategy (2009):
- N/A.
- 5.3 Site Allocations and Development Management Policies Development Plan Document (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 DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 5.4 Sheepy Parish Neighbourhood Plan 2018 – 2035 (SPNP) (2022):
- Policy S1: Countryside
 - Policy S2: Public Rights of Way Network
 - Policy S8: Design
 - Policy S10: Housing Development
 - Policy S15: Car Parking and New Housing Development
- 5.5 Other Relevant Guidance:
- Good Design Guide (GDG) (2020)
 - Landscape Character Assessment (LCA) (2017)
 - Levelling Up and Regeneration Act LURA (2023)
 - Self-Build and Custom Housebuilding Act (2015)
 - Technical Housing Standards – Nationally Described Space Standards (2015)

6. THE CASE FOR THE LOCAL PLANNING AUTHORITY

6.1 The planning application 24/00322/FUL was refused on 18 December 2024 by the Planning Committee for the following reasons:

1. The development represents unjustified residential development in an unsustainable location that fails to promote sustainable transport, the best use of public transport, nor provide any safe walking and cycling access to services and facilities. The future occupants of the scheme are therefore highly likely to be dependent on private motorised transport to meet their day-to-day needs, and this results in significant environmental harm.

As a result, the proposal is contrary to, and in conflict with, Policies DM4 and DM17 of the adopted Site Allocations Development Management Policies Development Plan Document (2016), as well as Paragraphs 8 and 139, and Sections 9 and 15 of the National Planning Policy Framework (2024).

2. The development lies outside of any identified settlement boundary and in an isolated location within the countryside. By virtue of its size, siting, scale, design, and use of materials, the development results in a detrimental and irreversible, urbanising and domesticating effect on the intrinsic value, beauty, open character, and landscape character of the countryside, the Sense Lowlands Character Area, and the surrounding area, as well as views from Public Footpath T10. This harm is compounded by the extensive hard surfacing associated with the proposed driveway, the significant loss of existing mature trees within the site, and the scheme's poor relationship to the existing residential structures near the site.

Ultimately, the benefits of the development of one dwelling do not significantly and demonstrably outweigh this harm. Therefore, the proposal is contrary to, and in conflict with, Policies S1, S2, S8, and S10 of the Sheepy Parish Neighbourhood Plan (2022), Policies DM1, DM4, and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Paragraphs 84 and 139, and Sections 2, 9, 11, 12, and 15 of the National Planning Policy Framework (2024), and the Council's Good Design Guide (2020).

3. Due to the constraints of the site, including the existing trees, the proposal results in significant adverse impacts to the residential amenity of the future occupants of the scheme due to the inadequate provision of natural light to the principal windows to habitable rooms within the proposed dwelling and to the property's associated private outdoor amenity space. Therefore, the development is considered to be in conflict with Policy S8 of the Sheepy Parish Neighbourhood Plan (2022), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Paragraph 135 of the National Planning Policy Framework (2024), and the Good Design Guide (2020).

6.2 It is considered that the main planning issues in relation to this appeal are therefore:

- The environmental harm of the development's unsustainable location
- The adverse effects of the scheme on the character of the surrounding area, including the designated open countryside
- The harm of the development on the amenity of the future occupants of the scheme

6.3 The primary case for the Appellants within their Statement against the refusal of planning application 24/00322/FUL is the weight associated with the scheme's contribution to the Council's supply of self-build and custom house-build development and the weight associated with the consideration of recent appeal decisions. This shall be addressed further within this Statement.

Determination of the Appeal Proposal

6.4 Paragraph 2 of the National Planning Policy Framework ('NPPF' or 'Framework') identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions. Paragraph 3 of the NPPF confirms that the Framework should be read as a whole (including its footnotes and annexes).

6.5 Following the publication of the Committee Report on 05 December 2024, the NPPF was updated on 12 December 2024. The implications of this on the determination of the appeal proposal were detailed on Pages 2, 3, 4, 5, and 6 of the Late Items Report for the December 2024 Planning Committee (cf. Appendix A).

6.6 Page 2 of the Late Items Report confirms that as a result of the amendments to the NPPF:

"The Council must re-visit its Five-Year Housing Land Supply (5YHLS) position. Whilst further assessment must be made, the Council are now unlikely to be able to demonstrate a 5YHLS, which is one of the circumstances for engaging the 'tilted' balance of Paragraph 11(d)."

6.7 The Planning Policy team are currently reviewing the latest revisions to the NPPF within the 2024 version of the document and its implications for the Council's Five-Year Housing Land Supply. A revised position will be published in Summer 2025 once the monitoring for the 2024/25 year has been completed. It is however likely that, with the revised need figure of 682 dwellings (649dpa + 5% buffer as per Paragraphs 62 and 78(a) of the NPPF), that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published.

- 6.8 However, as confirmed on Page 2 of the Late Items Report, and at Paragraph 8.24 of the latest Committee Report:

“In any event, due to the age of relevant housing policies within the adopted Core Strategy (2009), the ‘tilted’ balance in Paragraph 11(d) of the NPPF (2024) was already triggered in accordance with Footnote 8 and Paragraph 11.”

- 6.9 Nevertheless, as highlighted by Paragraph 8.3 of the Committee Report, in accordance with Paragraph 225 (now 232) of the NPPF, existing policies 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.

- 6.10 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.

- 6.11 Footnote 9 of the NPPF confirms that these key policies include Paragraphs 66 and 84 of Chapter 5 (Delivering a Sufficiently Supply of Homes), 91 of Chapter 7 (Ensuring the Vitality of Town Centres), 110 and 115 of Chapter 9 (Promoting Sustainable Transport), 129 of Chapter 11 (Making Effective Use of Land), and 135, and 139 of Chapter 12 (Achieving Well-Designed Places).

- 6.12 Key Policy Paragraphs 84, 115, 129, 135, and 135 are applicable in these site-specific circumstances. It is noted that the Appellants have failed to refer to any of these Key Policy Paragraphs within their Appeal Statement.

- 6.13 Paragraph 137 of the NPPF states that applicants, where applicable, should provide sufficient information to demonstrate how their proposals will meet the design expectations set out in local and national policy.

Award of Costs

- 6.14 Paragraph 52 of the Appellants' Statement refers to the circumstances which may lead to an award of cost.

- 6.15 The Planning Practice Guidance (PPG) advises that, irrespective of the outcome of the appeal, costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process
- 6.16 Costs may be awarded where a party has behaved unreasonably; and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Unreasonable behaviour in the context of an application for an award of costs may be either: procedural (relating to the process) or substantive (relating to the issues arising from the merits of the appeal). The Inspector has discretion when deciding an award, enabling extenuating circumstances to be taken into account.
- 6.17 An appellant is at risk of an award of costs being made against them if the appeal or ground of appeal had no reasonable prospect of succeeding. This may occur, but is not limited to, when the development is clearly not in accordance with the development plan, and no other material considerations such as national planning policy are advanced that indicate the decision should have been made otherwise, or where other material considerations are advanced, there is inadequate supporting evidence. An appellant is also at risk of an award of costs being made against them if the appeal follows a recent appeal decision in respect of the same, or a very similar, development on the same, or substantially the same site where the Secretary of State or an Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.

Weight of Policies within the Development Plan

- 6.18 Paragraph 49 of the Appellants' Statement suggests that the policies cited in the second reason for refusal of planning application 24/00322/FUL, "*Can only be given limited or moderate weight.*"
- 6.19 This assertion is strongly refuted by the Local Planning Authority. Notably, the policies within the second reason for refusal also include Key Policy Paragraphs 84 and 139 as well as Chapters 2, 9, 11, 12, and 15 of the NPPF. Therefore, this assertion is unreasonable because the Appellant does not refer to the policies that they consider to be out of date within the second reason for refusal.
- 6.20 The only policy mentioned within the Appellants' Statement is Policy DM4 of the SADMP. Policy DM4 of the SADMP is only acknowledged once in relation to this current appeal on Page 10, and the Statement also includes two quotes from other appeal decisions that mention Policy DM4 of the SADMP on Pages 2 and 10.
- 6.21 To support their position on the weighting of the policies cited within the reasons for refusal of planning application 24/00322/FUL, the Appellants have referred to the recent appeal decision against the refusal of planning application 23/01229/OUT at land east of The Common, Barwell at Appendix 1 of their Statement.

- 6.22 In relation to the Appeal Decision within Appendix 1 of the Appellants' Statement, Paragraph 5 of their Statement confirms that:

"The conclusions of the Inspector and the acknowledgement the entire 2009 CS and the policies contained within it are out of date, are significant material considerations that are directly applicable to the current appeal."

- 6.23 Firstly, the Local Planning Authority note that the policies within the adopted Core Strategy do not form part of any of the reasons for the refusal of planning application 24/00322/FUL.
- 6.24 Furthermore, Paragraph 41 of the 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."* 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.
- 6.25 The Supplemental Statement of Common Ground within this previous appeal (cf. Appendix B), 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. Therefore, this housing land supply position does not reflect the current five-year housing land supply position of the Council and is not considered to be an appropriate basis to determine the current appeal on.
- 6.26 As confirmed at Paragraphs 6.7 and 6.8 of this Appeal Statement, the Planning Policy team are currently reviewing the latest revisions to the NPPF within the 2024 version of the document and its implications for the Council's Five-Year Housing Land Supply, but it is unlikely that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published. In any event, the 'tilted' balance of Paragraph 11(d) of the NPPF was already triggered within the determination of this appeal.
- 6.27 Notwithstanding the above, the emphasis of Policy DM4 of the SADMP is to promote sustainable development proposals within the countryside and to safeguard it from unsustainable schemes, rather than to apply a blanket protection. In this regard, Policy DM4 is consistent with, and accords with, the NPPF. This is a view which has been supported by a number of Planning Inspectors such as within the appeal decisions for planning applications 17/00531/OUT, 18/00279/OUT, 19/00947/OUT, 19/01324/OUT, and 20/00102/OUT (cf. Appendices C to G).
- 6.28 Notably, due to the consistency of the Policy DM4 of the SADMP with the NPPF, Inspectors in several recent appeal decisions have not sought to query the weight associated with the Policy. This includes, but is not limited to, the dismissed appeal against the refusal of a self-build and custom house-build dwelling in the designated open countryside via 23/01195/FUL (cf. Appendix H), and the allowed appeal at 6 St. Mary's Garden, Barwell, which is included at Appendix 6 of the Appellants' Statement.

- 6.29 Given the above, the policies within the reasons for refusal of planning application 24/00322/FUL, including Policy DM4 of the SADMP, are considered to have strong conformity with the NPPF, and therefore these policies can be afforded significant weight within the planning balance in accordance with Paragraph 232 of the NPPF.

The Transport Sustainability of the Development's Location

- 6.30 Paragraph 8(b) of the NPPF confirms that the overarching social objective of sustainable development includes fostering well-designed places with accessible services and open spaces that reflect current and future needs and support communities' health, social, and cultural wellbeing.
- 6.31 Paragraph 8(c) of the NPPF confirms that the overarching environmental objective of sustainable development includes making efficient use of land, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
- 6.32 Paragraph 161 of the NPPF confirms that the planning should support the transition to net zero by 2050. It should help to shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and association infrastructure.
- 6.33 Chapter 9 of the NPPF promotes sustainable transport. Ultimately, Key Policy Paragraph 84 of the NPPF confirms planning decisions should avoid the development of isolated homes in the countryside.
- 6.34 Key Policy Paragraph 115(a) and (b) of the NPPF states that in assessing specific applications for development, it should be ensured that sustainable transport modes are prioritised, taking account of the vision for the site, the type of development, and its location, and ensure that safe and suitable access to the site can be achieved for all users.
- 6.35 Key Policy Paragraph 129(c) of the NPPF confirms that planning decisions should support development that makes efficient use of land, taking into account the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.
- 6.36 Key Policy Paragraph 135(f) of the NPPF confirms that places should be safe, inclusive, and accessible, which promote health and wellbeing.
- 6.37 In light of the above, four of the five applicable Key Policy Paragraphs within the NPPF demonstrate a need within planning decisions to promote sustainable modes of transport to reduce carbon emissions and to promote health and wellbeing.

- 6.38 To support this, Policy DM17(a), (b), and (d) of the SADMP requires development proposals to:
- (a) Seek to make the best use of existing public transport services and, where appropriate, provide opportunities for improving and sustainable the viability of those services; and
 - (b) Provide a convenient and safe access for walking and cycling to services and facilities; and
 - (d) Be located where the need to travel will be minimised and the use of sustainable transport modes can be maximised.
- 6.39 Highway Development Management (HDM) Policy 1 of the Leicestershire Highway Design Guide (LHDG) states that development must be accessible for all highway users and maximise the uptake of sustainable travel choices.
- 6.40 Paragraph 83 of Guidance Point M2 of the National Design Guide (NDG) confirms that in well-designed places, people should not need to rely on the car for everyday journeys, including getting to workplaces, shops, schools, and other facilities.
- 6.41 Ultimately, the Appellants have misunderstood the first reason for refusal of planning application 24/00322/FUL as Paragraph 32 of their Statement refers to the requirements of Paragraph 116 of the NPPF.
- 6.42 In spite of this, this first reason for refusal was explained within both Committee Reports for this appeal proposal on 04 June 2024 and 17 December 2024, as well as within an email from the Local Planning Authority on 10 December 2023 (cf. Appendix I) prior to the withdrawal of planning application 23/00923/FUL. The email within Appendix I is referred to at Paragraph 12 of the Appellant's Statement. It is noted that this email was not submitted as part of their appeal submission. Therefore, the Appellants' failure to understand the first reason for refusal is substantively unreasonable.
- 6.43 For clarity, the first reason for refusal is not related to any potential highway safety impacts of the development. The first reason for the refusal of planning application 24/00322/FUL was due to the environmental harm that is caused by the provision of the proposed new dwelling in this isolated and unsustainable location.
- 6.44 In spite of this, Paragraph 33 of the Appellants' Statement suggests that, "*Both National and Local Policy continues to support new residential development in rural areas.*" Notably, the Appellant has not sought to specifically mention these national or local planning policies that support development in unsustainable locations in rural areas that are reliant on private motorised transport. In light of the policies above, there is a clear intention within local and national planning policy and guidance to reduce the dependence on private motorised travel. Therefore, the failure to provide evidence to this inaccurate statement is substantively unreasonable.

6.45 Whilst the Appellants have referred to Paragraph 83 of the NPPF, the Appellants have failed to respond to the Local Planning Authority's assessment of the development against this NPPF Paragraph within the Committee Report.

6.46 For the avoidance of doubt, Paragraph 8.31 of the Committee Report stated:

"The application site is not considered to be in a location where it enhances or maintains the vitality of rural communities, nor is it considered to represent sustainable development in principle."

6.47 Instead, the Appellants have referred to an appeal decision for the provision of one dwelling at land south of Newton Farm, Main Road, Newton Regis, Warwickshire at Appendix 5 of their Statement. The Local Planning Authority highlights that this previous appeal proposal was dismissed by the Inspector. Furthermore, the site within this previous appeal decision was within the identified settlement boundary of Newton Regis and therefore there are significant material differences between the two schemes, and the comments at Paragraph 21 of this appeal decision are not applicable to the site-specific circumstances of this appeal.

6.48 Ultimately, as the unsustainable location of the appeal decision at land south of Newton Farm was not a reason for refusal within this appeal decision, the weight of this appeal decision should attract little weight in the planning balance of the determination of this appeal.

6.49 Although Paragraph 30 of the Appellants' Statement suggests that the Local Planning Authority's settlement boundaries are out of date, the application site is over 1.5km from any existing settlement boundaries within the Borough of Hinckley and Bosworth. This is confirmed at Paragraph 8.8 of the Committee Report. For emphasis, Paragraph 8.8 of the Committee Report states that:

"The application site is in an isolated location that is 1.5km from the edge of Market Bosworth via a classified 'C' road that does not benefit from a pedestrian footway, street lighting, nor any public transport services. This distance increases to 3km to Market Place in Market Bosworth where the majority of key facilities within the settlement are located. In addition, the proposal is approximately 241m from the site's access onto Bosworth Road."

6.50 The Appellants have not sought to contest these facts, nor do they demonstrate how the appeal site does not suffer from poor transport sustainability whereby the future occupiers of the development are likely to be dependent on private motorised transport to meet their day-to-day needs.

6.51 Although the Appellants have referred to people working from home, electric vehicles, and home delivery services, these are generalisations, and notably the Appellants have not proposed any electric vehicle charging points within their development. Therefore, this flawed supposition provides no justification that overcomes the proposal's clear conflict with the requirements of local and national policies.

- 6.52 In spite of the environmental harm caused by the development, Paragraph 38 of the Appellants' Statement suggests that the development creates, "*Environmental gains*." The Local Planning Authority notes that the Appellants have not sought to confirm or even refer to any environmental benefits of the scheme within their submission at planning application stage or at this appeal stage. The assertion that there will be environmental gains is therefore baseless and the failure to provide evidence for this inaccurate statement is substantively unreasonable.
- 6.53 Given the above, the first reason for refusal stands as the development represents unjustified residential development in an unsustainable location that fails to promote sustainable transport or the best use of public transport and fails to provide any safe walking and cycling access to services and facilities. The future occupants of the scheme are therefore highly likely to be dependent on private motorised transport to meet their day-to-day needs, and this results in significant environmental harm.
- 6.54 As a result, the proposal is contrary to, and in conflict with, four of the five applicable Key Policy Paragraphs and the overarching environmental and social objectives of sustainable development as defined within the NPPF, as well as Chapters 2, 9, and 15, and Policies DM4 and DM17 of the SADMP, and the National Design Guide.

Impact upon the Character of the Surrounding Area and the Countryside

- 6.55 The second reason for the refusal of planning application 24/00322/FUL is due to the scheme's significant harm to the character of the surrounding area and the designated open countryside.
- 6.56 Chapter 11 of the NPPF promotes an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. This demonstrates that safeguarding and improving the environment and the character of the countryside is an effective use of land.
- 6.57 Key Policy Paragraph 129(d) of the NPPF states that planning decisions should support development that makes an effective use of land, taking into account the desirability of maintaining and area's prevailing character and setting (including residential gardens), or of promoting regeneration and change.
- 6.58 Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve.
- 6.59 Key Policy Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.

- 6.60 Notably, Key Policy Paragraph 135(a) and (c) of the NPPF require development to:

“Function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development,”

and to be,

“Sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change.”

- 6.61 Key Policy Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 6.62 Conversely, Key Policy Paragraph 139 of the NPPF gives significant weight to:

- (a) development which reflects local design policies and government guidance on design taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
- (b) outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

- 6.63 Outside of defined settlement boundaries, the countryside is not regarded as a sustainable location for new development, and residential uses are not considered to be a form of development that protects the character of these rural locations.

- 6.64 Chapter 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 187(b) specifically highlights that this should be achieved by, *“Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.”*

- 6.65 Key Policy Paragraph 84 of the NPPF confirms that planning decisions should avoid the development of isolated homes in the countryside. The exception to this stance is where:

- (a) There is an essential need for housing a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside; or
- (b) The development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets; or

- (c) The development would re-use a redundant or disused building and enhance its immediate setting; or
 - (d) The development would involve the subdivision of an existing residential building; or
 - (e) The design is of exceptional quality in that it is truly outstanding and reflects the highest standards in architecture and would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area.
- 6.66 This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development.
- 6.67 Policy DM4 of the SADMP only considers residential development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.
- 6.68 These requirements are echoed within Policy S10 of the SPNP, which states that, outside the Sheepy Magna and Sibson settlement boundaries, permission for housing development will be limited to:
- (a) Land allocated for residential development at Hornsey Rise Memorial Home in accordance with Policy S13 of the SPNP; or
 - (b) Rural worker accommodation in accordance with Policy DM5 of the SADMP; or
 - (c) Replacement dwellings in accordance with Policy DM14 of the SADMP; or
 - (d) The re-use and/or adaptation of redundant rural buildings in accordance with Policy DM15 of the SADMP; or

- (e) Other circumstances as set out in Paragraph 80 [now 84] of the NPPF; or
 - (f) Exception sites for affordable housing in accordance with Policy S12 of the SPNP.
- 6.69 As highlighted at Paragraph 8.29 of the Committee Report, the appeal proposal does not comply with any of the requirements of Paragraph 84 of the NPPF, Policy DM4 of the SADMP or Policies S1 or S10 of the SPNP. As such, Paragraph 8.22 of the Committee Report considered the appeal proposal to be unacceptable in principle.
- 6.70 Importantly, Policy DM4 of the SADMP also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 6.71 Policy DM4(i) of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside.
- 6.72 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.
- 6.73 Paragraph 14.3 of the SADMP states that:
- “The Borough Council will ensure that all new development helps to create an attractive and safe environment that is in keeping with the character of the location in which is situated.”*
- 6.74 Policy S2 of the SPNP requires development to protect and enhance the existing Public Rights of Way within Sheepy Parish.
- 6.75 Policy S8 of the SPNP also sets out the requirements for the design of development within the Parish, which includes responding positively to the character of the area, demonstrably responding to the features of its setting, and working with the scale, form, and character of the location to make a positive contribution to the street scene, amongst others.
- 6.76 Guidance Point C1 of the National Design Guide (NDG) confirms that well-designed new development should respond positively to the features of the site itself and the surrounding context beyond including the existing built development and landscape character, amongst others.
- 6.77 Guidance Point I1 of the NDG highlights that new developments should consider the composition of street scenes and individual buildings and their elements including the height, scale, massing and relationship between buildings, as well as views, vistas and landmarks, and landscaping, amongst others.

- 6.78 Ultimately, Guidance Point I2 of the NDG advised that well-designed places should contribute to local distinctiveness.

Assessment of the Location of the Appeal Proposal and the Application of Local and National Planning Policies

- 6.79 Prior to any assessment of the appeal proposal, Paragraph 28 of the Appellants' Statement states that they, "*Never relied upon,*" Key Policy Paragraph 84 of the NPPF to justify their appeal proposal. The Appellants then suggest at Paragraph 40 of their Statement that, "*Paragraph 84 was not applicable under the specific circumstances,*" which the Appellants have claimed was a position that was supported by Design Midlands.
- 6.80 Firstly, whilst the Appellants have not sought to rely on Key Policy Paragraph 84 of the NPPF to justify their development, that does not mean that Key Policy Paragraph 84 of the NPPF does not apply in these circumstances. The appeal site is located beyond any identified settlement boundaries within the Borough and is therefore considered to be in the designated open countryside for the purposes of the Development Plan and the NPPF.
- 6.81 Paragraph 40 of the Appellants' Statement suggests that the reason Key Policy Paragraph 84 of the NPPF was not applicable to this appeal proposal was because the scheme was, "*Assessed in relation to Paragraph 139 of the Framework.*"
- 6.82 This suggestion is completely misguided and disregards Paragraph 3 of the NPPF, which confirms that the NPPF should be read as a whole. Importantly, the Appellants have not sought to justify why Paragraph 84 of the NPPF does not apply in these site-specific circumstances. This lack of adequate supporting evidence within the Appellants' Statement is substantively unreasonable.
- 6.83 Furthermore, it is noted that the requirements of Key Policy Paragraph 84(e) of the NPPF are very similar to the requirements of Key Policy Paragraph 139(b) of the NPPF. This is because both policies state that development needs to be, "*Outstanding,*" and needs to help, "*To raise standards of design more generally,*" in the area. It is therefore considered that the ambitions of both Key Policy Paragraphs are consistent and both applicable in the assessment of this appeal proposal.
- 6.84 It is also noted that at no stage within the formal response from Design Midlands, which was submitted as part of the planning process, did Design Midlands suggest that Key Policy Paragraph 84 of the NPPF did not apply in these site-specific circumstances.
- 6.85 Importantly, the role of Design Midlands within the planning application process, as described at Page 8 of their formal response to the planning application, was to provide, "*Design advice on the project.*" Therefore, it was not within the scope of Design Midlands' response to advise whether Paragraph 84 of the NPPF applied to this proposal or not.

- 6.86 Page 1 of Design Midland's Term of Reference (cf. Appendix J) confirms that the role of Design Midlands is:

"To provide independent and professional advice, evaluation and highlight examples of best practice. It is NOT a decision-making body, that lies with the Local Planning Authority (LPA). The DMRP has an advisory role. A DMRP Panel report will be provided to the design review participants as advice."

- 6.87 Given the above, the Appellants have misguided themselves in relation to their interpretation of the requirements of national and local planning policies and have erroneously misinterpreted the response of Design Midlands to their appeal proposal. In light of the response from Design Midlands and the comments from the Local Planning Authority, these inaccuracies within the Appellants' Statement are substantively unreasonable.

- 6.88 For further clarity, the definition of 'isolated' homes in the countryside within Paragraph 84 of the NPPF is not defined in the NPPF. In accordance with Paragraph 31 of the High Court Decision (2018 EWCA Civ 610) in relation to *Braintree v Secretary of State for Communities and Local Government & Ors* [2018] (EWCA Civ 610) (cf. Appendix K), the term 'isolated' in the phrase, 'isolated homes in the countryside,' was considered by the High Court to:

"Simply [connote] a dwelling that is physically separate or remote from a settlement. Whether a proposed dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgement for the decision maker in the particular circumstances of the case in hand."

- 6.89 As confirmed at Paragraph 33 of the High Court Decision *Bramshill Park v SSHCLG* (2021 EWCA Civ 320) (cf. Appendix L):

"To adopt remoteness from other dwellings, instead of remoteness from a settlement, as the test for "isolated homes in the countryside" would seem inconsistent with the Government's evident intention in producing the policy in paragraph 79 [of the NPPF]. It would mean, presumably, that the policy would not apply to a development of housing in the countryside – large or small – on land next to an individual dwelling remote from the nearest settlement, because although the new homes might be "isolated" from the settlement, they would not be "isolated" from existing development. It would prevent the policy from applying to the development of additional dwellings, one or two at a time, on sites next to other sporadic rural housing, again on the basis that they would not then be "isolated". It might even prevent the policy from applying to a proposal for two or more dwellings on a single, undeveloped site in the countryside, because none of them would itself be "isolated" from another dwelling, and the development as a whole would therefore not be "isolated". If this were so, only the development of a single dwelling, on its own, separate from any other dwelling already built or proposed nearby, would engage the policy. This would be hard to reconcile with the Government's aim, as policymaker, to "promote sustainable development in rural areas."

- 6.90 In light of the above and the assessment of the transport sustainability of the appeal site within the Committee Report and this Appeal Statement, the appeal site is physically separate and remote from any identified settlement, services and facilities within the Borough and the future occupiers of the scheme are dependent on private motorised travel to meet their day-to-day needs.
- 6.91 Given the above, Key Policy Paragraph 84 of the NPPF applies in these site-specific circumstances, and the proposed scheme represents the development of an isolated home in the countryside that does not enhance or maintain the vitality of rural communities. Ultimately, the proposal is contrary to, and in conflict with, Paragraph 83 and Key Policy Paragraph 84 of the NPPF.
- 6.92 In spite of this, the Appellants have suggested at Paragraph 43 of their Statement that:
- “The appeal proposal is not located within the open countryside but rather that the appeal development is within the appellant’s garden.”*
- 6.93 This statement is wholly inaccurate and misguided. This suggestion fails to acknowledge that residential garden associated with a dwelling can be within the designated open countryside. In addition, whilst the appeal site is within the wider residential garden of an existing dwelling, this does not justify the provision of a new independent dwelling of a considerable size and scale.
- 6.94 To support their inaccurate statement, the Appellants have referred to an appeal decision in Barwell in relation to the erection of a raised decking area and storage unit at Appendix 6 of their Statement. Notably, the Inspector considered Policy DM4 of the SADMP within their assessment of this previous appeal proposal. Therefore, the Appellants’ consideration of national and local policies, is substantively unreasonable.
- 6.95 Ultimately, this previous appeal decision should be afforded little weight in the determination for this current appeal because the provision of decking that is associated with an existing residential use adjacent to the identified settlement boundary of Barwell is not comparable to a new independent residential property in an isolated location in the designated countryside.
- 6.96 Paragraph 45 of the Appellants’ Statement then refers to guidance from The Right to Build Task Force that the Appellants have not sought to appropriately identify. Nevertheless, the quote provided at Paragraph 45 of the Appellants’ Statement clearly states:
- “Approving proposals for minor development of a few modest homes outside but proximate to a settlement or supporting family homes in urban back land or gardens are unlikely to jeopardise strategic spatial strategy or strategic policies.”*

- 6.97 The Local Planning Authority notes that the appeal site is not proximate to any existing settlement, it does not support a family home, nor is it located within urban back land or urban gardens. Therefore, the appeal proposal is contrary to the requirements of the guidance of the Right to Build Task Force that have been referenced by the Appellants.

Impact of the Development upon the Character of the Surrounding Area and the Open Countryside

- 6.98 Paragraphs 8.45 to 8.91 of the Committee Report assesses the appeal proposal's impact on the character of the surrounding area and the designated countryside. This included an assessment of Design Midlands's formal response to the design of the appeal proposal.
- 6.99 It is noted that the Appellants have not sought to even mention the Local Planning Authority's assessment of their scheme, nor justify their proposed development in light of the Council's assessment. This lack of adequate supporting evidence within the Appellants' Statement is substantively unreasonable.
- 6.100 To summarise the assessment within the Committee Report, despite undertaking a design review of their development, the Appellants have failed to engage or implement any of the eight key recommendations made by Design Midlands within the design of their proposal.
- 6.101 Importantly, Design Midlands did not suggest at any stage of their response that the design of the development would meet the requirements of Key Policy Paragraphs 84(e) or 139 of the NPPF.
- 6.102 Some of the wider comments of Design Midlands in relation to the design of the scheme included, but were not limited to, that:
- The scheme's relationship with The White House was, *"Particularly important and needs to be clearly established."*
 - The loss of the existing mature trees within the site would, *"Significantly alter the site."*
 - The design of the scheme needed, *"Strengthening and clarification of the interface and relation of the house with the immediate landscape."*
 - The design of the drive is, *"Formal, out of character with the adjoining landscape and undermines the design ambition,"* of the development.
 - The proposed car parking was, *"Prominent within views into the site."*
 - The larger footprint of the development was, *"Problematic for a relatively small site."*
- 6.103 The design of the development as a 26.7m wide and 4m high brick wall is completely incongruous to the character of the surrounding area and the designated countryside, and the proposal fails to establish any appropriate relationship with, nor reflect the character of, The White House.

- 6.104 On the contrary, the development is larger in size and scale than The White House, and by virtue of its size, siting, scale, design, and use of materials, the development results in a significant, detrimental, and irreversible, urbanising and domesticating effect on the intrinsic value, beauty, open character, and landscape character of the countryside, the Sense Lowlands Character Area, and the surrounding area, as well as views from Public Footpath T10.
- 6.105 This harm is compounded by the extensive hard surfacing associated with the proposed driveway, the significant loss of existing mature trees within the site, and the scheme's poor relation to the existing host dwelling.
- 6.106 As a result, the scheme is not well designed and fails to reflect local design policies and government guidance on design. In accordance with Key Policy Paragraph 139 of the NPPF, it is recommended that the appeal proposal is dismissed.
- 6.107 The only attempt within the Appellants' Statement, to justify their proposed development in light of the concerns raised by the Local Planning Authority and Design Midlands is in Paragraph 43 whereby the Appellants suggest that the scheme shall:
- "Be viewed against the backdrop of the Appellants' existing dwelling and the neighbouring properties will also reduce the visual impact."*
- 6.108 The Local Planning Authority wholly refute this statement.
- 6.109 The proposal shall not be viewed against the backdrop of nearby residential dwellings with the exception of The White House. There are no other residential dwellings on the northern side of Bosworth Road within 700m east of the application site, 800m of the north of the site, nor 450m west of the application site, and there are only two dwellings to the south of the appeal site. Crucially, the presence of these dwellings in the countryside does not support the further domestication and development of this area of the countryside. This matter was raised at Paragraphs 8.62 and 8.63 of the Committee Report. The Appellants have not sought to refer to this, nor contest this. Therefore, the comments of the Appellants at Paragraph 43 of their Statement without any supporting evidence is substantively unreasonable.
- 6.110 In summary, the development results in significant adverse effects to the character of the site, surrounding area, the intrinsic value, beauty, open character, and landscape character of the countryside, including the Sense Lowlands Character Area, as well as views from Public Footpath T10. Therefore, the proposal is contrary to, and in conflict with, all five applicable Key Policy Paragraphs within the NPPF, Chapters 2, 9, 11, 12, and 15 of the NPPF, Policies DM4 and DM10 of the SADMP, Policies S1, S2, S8, and S10 of the SPNP, the National Design Guide, and the Council's Good Design Guide. As a result, the scheme is not well designed and fails to reflect local design policies and government guidance on design. In accordance with Key Policy Paragraph 139 of the NPPF, it is recommended that the appeal proposal is dismissed.

Impact upon the Residential Amenity of the Future Occupiers of the Development

- 6.111 The third reason for the refusal of planning application 24/00322/FUL is due to the scheme's significant harm to the residential amenity of the future occupants of the scheme. This harm is due to the failure to provide an adequate provision of natural light to the proposed dwelling and its associated private outdoor amenity space.
- 6.112 Key Policy Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, which promote health and well-being, and a high standard of amenity for existing and future users.
- 6.113 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.
- 6.114 Once again, it is noted that the Appellants have failed to understand the reasons for refusal of planning application 24/00322/FUL. This can be seen by the fact that Paragraphs 50 to 52 of the Appellants' Statement refers to the comments of Leicestershire County Council's Ecology Department and the details within the submitted Arboricultural Impact Assessment, and Paragraphs 55 to 56 of their Statement refers to landscaping packs provided by Leicestershire County Council.
- 6.115 The third reason for refusal was explained within both Committee Reports for this appeal proposal on 04 June 2024 and 17 December 2024, as well as within the email from the Local Planning Authority on 10 December 2023 prior to the withdrawal of planning application 23/00923/FUL (cf. Appendix I). Therefore, the Appellants' failure to understand the third reason for refusal is substantively unreasonable.
- 6.116 For the avoidance of doubt, the third reason for refusal of planning application 24/00322/FUL was not based on the scheme's potential to cause ecological harm.
- 6.117 The Local Planning Authority's assessment of the scheme's impact on the residential amenity of the future occupants of the scheme is detailed at Paragraphs 8.95 to 8.105 of the Committee Report.
- 6.118 To summarise the Council's assessment within the Committee Report, the development, including its associated private outdoor amenity space is not considered to be provided with an adequate level of natural light. This is due to the siting of the development, its detailed design and the constraints of the site, including its existing trees. As a result, the appeal proposal results in significant harm to the residential amenity of the future occupiers of the scheme and, if approved, will create further pressure for the removal of existing trees within the site as they continue to grow.

- 6.119 It is again noted that the Appellants have failed to acknowledge the Council's assessment of their appeal proposal, nor to justify their scheme in light of the reasons for refusal. This is substantively unreasonable.
- 6.120 However, the Appellants have claimed at Paragraph 54 of their Statement that the Local Planning Authority have not substantiated the third reason for refusal with, *"Cogent or compelling professional advice."*
- 6.121 The Local Planning Authority strongly refute this statement.
- 6.122 As per Paragraph 8.78 of the Committee Report, the assessment of the scheme's poor visual outlook is based on the separation distances detailed within the Council's Good Design Guide. The Appellants have failed to refer to the Good Design Guide at any stage of the application process or the appeal process of this development.
- 6.123 It is important to note that Local Planning Authority's assessment is supported by the cogent and compelling professional advice detailed within the Design Midlands' Review of the original scheme. The summary within the Design Midlands' Review on Page 6 states:
- "As proposed, concerns were raised on the impact of the scheme in particular... the quality of the internal and external spaces."*
- 6.124 Page 5 of the Design Midlands' Review raised concerns in relation to:
- "The tightness of the plot in terms of the proximity of the building to the existing trees (loss of trees), the value and quality of the resulting outdoor spaces and the quality of the internal spaces to the rear which will be in shade. The use of extensive rooflights to provide enough natural light was questioned by the Panel."*
- 6.125 As a result, the Design Midlands' Review recommended on Page 4 of their response that one of the main considerations of the recommended proposed Landscape Strategy should include:
- "Further consideration of the design approach, quality, function, form, and character of the outdoor spaces."*
- 6.126 It is noted that the Appellants did not seek to make any amendments to the appeal proposal in light of these recommendations.
- 6.127 Furthermore, the Appellants have failed to provide cogent or compelling evidence based on professional advice that the development shall not result in significant harm to the residential amenity of the future occupants of the dwelling.
- 6.128 On the contrary, the Appellants have demonstrated the concerns of the Local Planning Authority within the 3D visualisations of the proposed development, which are provided at Appendix 7 of their Statement.

- 6.129 Although the 3D visualisations of the appeal proposal do not accurately demonstrate the existing size, height, positioning, and type of trees within the site, Pages 3, 4, 11, 13, 14, 15, 17, 18, 19, 20, 21, of Appendix 7 of the Appellants' Statement clearly demonstrate that the property and its associated private outdoor amenity space are not provided with an adequate level of natural light.
- 6.130 Whilst Appendix 7 of the Appellants' Statement also includes an 'internal light study,' this study only consists of 3D visualisations that do not accurately reflect the site-specific circumstances of the site, nor the amount of natural light that is perceivable by the human eye. Therefore, Appendix 7 of the Appellant's Statement is not considered to provide suitable justification to demonstrate that the scheme does not result in significant harm to the residential amenity of the future occupiers of the scheme.
- 6.131 Given the above, the third reason for the refusal of planning application 24/00322/FUL stands because the proposal results in significant adverse impacts to the residential amenity of the future occupants of the scheme. This is due to the inadequate provision of natural light to the principal windows to habitable rooms within the proposed dwelling and to the property's associated private outdoor amenity space, which is exacerbated by the constraints of the site, including the existing trees. Therefore, the appeal proposal is contrary to, and in conflict with, Key Policy Paragraph 135 of the NPPF, Policy DM10 of the SADMP, Policy S8 of the SPNP, and the Good Design Guide.

Self-Build and Custom Housebuilding

- 6.132 The Council's assessment of the policies and statutory duties associated with, and the development's contribution to the Council's supply of, self-build and custom housebuilding is detailed at Paragraphs 8.34 to 8.44 of the Committee Report.
- 6.133 Importantly, whilst Section 2A (2) of the Self-Build and Custom Housebuilding Act 2015 requires the Local Planning Authority to give permission to development for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the Authority's area in relation to any base period. This does not suggest that the benefits of contributing to the Council's supply of self-build and custom housebuilding automatically outweigh the requirement to determine a development proposal against the adopted Development Plan and against national planning policy, and the policies within these documents that are designed to direct development to the most sustainable locations.
- 6.134 This is identified at Paragraph 8.126 of the Committee Report, which confirms that:

"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."

- 6.135 In addition, 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).”

- 6.136 Although the Appellant has referred to Paragraphs 8.41 and 8.42 of the Committee Report within their Statement, the Appellant has not sought to comment on this assessment.

- 6.137 Since the assessment within the Committee Report, the Council has confirmed that it has supplied fewer suitable cumulative permissions than the cumulative required demand for self-build and custom house-build dwellings at the end of Base Period 9. Therefore, the Council has a modest shortfall of five self-build and custom house-build dwellings. As stated at Paragraph 8.43 of the Committee Report, if secured by a UU, this development as a self-build and custom house-build would contribute to the current unmet demand and the cumulative need for permissions by the end of this Base Period (31 October 2024 to 30 October 2025).

- 6.138 Ultimately, the appeal proposal is now accompanied by a Unilateral Undertaking, which legally secures the development’s contribution the Council’s supply of self-build and custom housebuilding. This is welcomed by the Local Planning Authority. As a result, moderate weight can be afforded to this benefit, in accordance with Paragraph 8.44 of the Committee Report.

- 6.139 This moderate weighting is supported by the Inspectors within the determination of the appeals at The Barn in Thrussington (Appendix M) and at The Cottage in Belton (Appendix N).

- 6.140 Importantly, Paragraph 15 of the Appeal Decision for the development at land northeast of the Hovel (Appendix H) states:

“The proposal is for a self-build house upon this plot. However, the very nature of introducing more physical development to this location would cause harm, whether this be a self-build property or not. Although some weight must be given to the general benefits of self-build the harm in this case would outweigh such benefits.”

- 6.141 Furthermore, the Inspector at Paragraph 7 of the dismissed appeal decision at the Land north of North Hays in South Petherton (Appendix O) stated:

“Nothing I have seen or read generally, or in evidence, would suggest that if a scheme would not represent sustainable development, then merely because it has a self-build categorisation it should be permitted. One can imagine the figurative flood gates to unsustainable development would be opened if that were to be the case.”

- 6.142 In light of the above, whilst the Local Planning Authority are not currently meeting their statutory duty to permit a sufficient number of self-build and custom house-build schemes, the proposal would only add one new dwelling to this supply. As such, the benefits of this small contribution in addressing the limited current shortfall in the Council's provision of self-build and custom housebuilding developments is considered to attract moderate weight.
- 6.143 Notwithstanding this, the benefits associated with this provision do not suggest that the appeal proposal represent sustainable development, nor that there is any justification for the proposal not to be determined against the requirements of the Development Plan and the NPPF when read as a whole.
- 6.144 To justify their criticism of the Council's assessment of the scheme's contribution the Council's provision of self-build and custom housebuilding, the Appellants have referred to Appendices 2 and 3 of their Statement.

Appendix 2 of the Appellant's Statement

- 6.145 Appendix 2 relates to a Self-Build and Custom Housebuilding Assessment, which was undertaken by Marrons for a planning application at Upper Granger Farm, Ratby Lane, Markfield, which was based on Freedom of Information Responses from October 2022 and June 2024.
- 6.146 Paragraph 4.9 of Appendix 2 confirms that the calculations that were utilised to create the estimate for the demand for self-build and custom housebuilding in England within the Beacon Review and in the Borough of Hickley and Bosworth is based on a YouGov poll undertaken by the National Custom and Self Build Association (NCSBA). Footnote 5 of this Appendix confirms that this poll was undertaken online over three days in 2020 and the sample size only consisted of 2,017 adults who lived in the UK. The poll does not break down the sample size beyond this, for example in terms of age, gender, or location.
- 6.147 The conclusions of this NCSBA poll are based on the fact that 32% people who responded to this survey were interested in building their own home. Whilst people may aspire to build their own homes while responding to a YouGov online poll, this is not synonymous with the current demand of people who are actively looking to develop their own self-build and custom-build properties. Notably, only 3% of people who responded to the poll were looking for land on which to provide a self-build or custom house build property.
- 6.148 Importantly, the conclusions of the NCSBA poll confirmed that the biggest barrier to self-build and custom housebuilding development was the access to finance. The poll highlights that 48% of 18- to 24-year-olds and 45% of 25 to 34 years old were interested in building their own properties.

- 6.149 In spite of this, Chapter 3 of the Ministry of Housing, Communities and Local Government's Accredited Official Statistics confirmed that in 2023 to 2024, the average mean age of all first-time buyers in England (excluding London) was 34 years old, which had increased from 32 in 2019 to 2020¹.
- 6.150 In summary, as per Paragraph 8.41 of the Committee Report and in accordance with Section 2A(6) of the Self-Build and Custom Housebuilding Act 2015 (as amended), the demand for self-building and custom housebuilding arising in an authority's area in a base period is evidenced by the number of entries added during that period to the authority's Self-Build and Custom Housebuilding Register. At the end of each base period, the Local Planning Authority have three years in which to approve an equivalent number of plots of land for self-build and custom housebuilding on serviced plots of land as there are entries for that base period.
- 6.151 The conclusions of Appendix 2 are based on the generalisations of an outdated poll that was undertaken with an unidentified small sample study group over a large geographic region. The results are not representative of the demand for self-build and custom housebuilding within the Borough of Hinckley and Bosworth, and the results do not change the statutory duties of the Local Planning Authority in line with Section 2A (6) of the Self-Build and Custom Housebuilding Act 2015 (as amended). Therefore, this document should be afforded no weight within the determination of this appeal.

Appendix 3 of the Appellant's Statement

- 6.152 Appendix 3 of the Appellant's Statement refers to a legal opinion from a King's Chambers' Lawyer in relation to refused planning application, 3/2017/110, at the Land adjacent to John Smith Playing Field, Chailey Road, Longridge.
- 6.153 Firstly, the proposed development associated with Appendix 3 was adjacent to the defined settlement boundary of Longridge and for the development of up to 15 self-build dwellings, which included 30% of the properties to come forward as affordable housing units. Therefore, the proposal within Appendix 3 has significant and material planning considerations than the current appeal proposal, which is only for one dwelling over 1.5km from the boundaries of any identified settlement within the Borough.
- 6.154 Secondly, Paragraph 19 of this legal opinion confirms that:
- "The weight of a material consideration is a matter for the decision maker."*
- 6.155 In spite of this legal opinion, it is noted that the Applicant of the referred to planning application did not seek to appeal the refusal of their development.

¹ Ministry of Housing, Communities and Local Government (2024) *Chapter 3: Housing history and future housing* [online]. Available at: <<https://www.gov.uk/government/statistics/chapters-for-english-housing-survey-2023-to-2024-headline-findings-on-demographics-and-household-resilience/chapter-3-housing-history-and-future-housing>>.

- 6.156 Importantly, a new proposal for ten self-build dwellings was submitted on the same site via planning application 3/2018/0507, which was refused and then dismissed at appeal (cf. Appendix P). Paragraph 18 of this Appeal Decision confirmed that:

“The proposed houses, while often viewed in the context of the nearby built form of Longridge, would nonetheless be seen as a development that was separated from the established built form of the settlement.”

- 6.157 Even with the weight afforded to the provision of ten self-build dwellings, Paragraph 29 of this Appeal Decision confirmed that:

“The provision of self-build plots by the appeal scheme is material consideration that weighs in favour of the appeal scheme. It does not however outweigh the harm that I have identified previously.”

- 6.158 In summary, the legal opinion confirms that the weight of a material consideration is a matter for the decision maker. Therefore, whilst the legal opinion considered the contribution of 15 self-build dwellings to the supply of a Council's to be afforded significant or, “Overwhelming,” weight in the planning balance, the Inspector of the appeal against the subsequent planning application still considered the harm of the development to the character and appearance of the area to significantly and demonstrably outweigh the benefits of the development.

- 6.159 In comparison to the current appeal proposal, the development is for one dwelling that is located in an isolated area away from identified settlement boundary. Given the above, the significant material consideration of the development highlighted by the Appellants demonstrates that the current scheme's impact on the character and appearance of the area significantly and demonstrably outweighs the benefits of the development in line with the conclusions of the Local Planning Authority.

Material Considerations

- 6.160 Paragraph 27 of the Appellants' Statement states that:

“It is telling that the associated Committee Report makes literally no reference to the significant material considerations cited in the sections above.”

- 6.161 The Local Planning Authority strongly refute this Statement.

- 6.162 This statement is factually incorrect, and this is demonstrated by the fact that the wording of every paragraph except Paragraphs, 4, 5, 7, 9, and 11 within the Appellants' Statement up to Paragraph 27 are identical to that which was submitted as part of the planning application stage. The Committee Report specifically addresses these ‘material considerations’ between Paragraphs 8.116 to 8.122. The Appellants have not sought to refer to these comments, nor justify their development in light of them. Therefore, this accusation is substantively unreasonable.

- 6.163 Furthermore, it is noted that the Committee Report for this appeal proposal could not have made reference to the appeal decision at Land east of The Common, Barwell and the Appellant's comments within Paragraphs 4 to 5 for their Statement because application 24/00322/FUL was determined three months prior to this appeal decision was issued. In addition, the Committee Report could not have made reference to Appendices 2 and 3 and Paragraphs 6, 7, 9, and 11 of the Appellant's Statement, because this information had not been submitted to the Local Planning Authority at the application stage of the development. The Appellant had also not submitted a Unilateral Undertaking until this stage of the planning process. Therefore, the Appellant's accusations are substantively unreasonable.
- 6.164 The new details in relation to the Unilateral Undertaking and Appendices 2 and 3 of the Appellant's Statement have now been addressed at between Paragraph 6.1326.138 and 6.159 of this Report.
- 6.165 The new details in relation Appendix 1 of the Appellant's Statement have also been addressed at Paragraphs 6.21 to 6.29 of this Report.
- 6.166 Notwithstanding this, it is noted that the development within the appeal decision at land east of The Common was for the provision of 95 dwellings, including a quantity of affordable housing provision that exceeds the Council's policy requirements by 35%, on the eastern edge of the settlement boundary of Barwell. Therefore, the development within Appendix 1 of the Appellants' Statement has significant material differences that are not comparable to the current appeal proposal for one self-build and custom house-build dwelling in an isolated location in the designated open countryside that results in significant harm to the character of the surrounding area.
- 6.167 In light of Paragraph 27 of the Appellants' Statement, and the Appellants' claims that at Paragraph 60 of their Statement that the Local Planning Authority, "*Have failed to provide cogent and compelling reasons to substantiate the reasons of refusal,*" the Appellants have been substantively unreasonable within their appeal of the determination of planning application 24/00322/FUL.
- 6.168 As highlighted previously within this Report, the Appellants have failed to acknowledge or respond positively to the Council's assessment of their development proposal within two Committee Reports for application 24/00322/FUL, have failed to acknowledge or respond positively to the comments raised by the Council within the process of the withdrawn planning application 23/00923/FUL, and have failed to acknowledge or respond positively to the advice provided by Design Midlands. The Appellants' failure to provide appropriate evidence to justify their appeal is substantively unreasonable.
- 6.169 The only justification for the design of the development within the Appellant's Statement is at Paragraphs 16 to 21 of their Statement, which is a regurgitation of Page 9 of their Design and Access Statement, which fails to take into account any of the advice of the Local Planning Authority or Design Midlands.

- 6.170 Whilst Paragraph 12 of the Appellants' Statement suggests that the Appellants took time to, "*Address the issues raised by the LPA at that particular junction in time,*" it is noted that no amendments to the scheme were made within the original submission of 24/00322/FUL. Importantly, the Appellants omitted any reference to the withdrawn planning application 23/00923/FUL within the submitted Design and Access Statements as part of the application process of 24/00322/FUL. Furthermore, the Appellants fail to refer to the design of their own scheme within '*The Case for the appellant: Reason 2,*' of their Statement and falsely suggest that the application site is not within the designated countryside. In light of the history of this proposal and the submitted details, the Appellants' failure to provide appropriate evidence to justify their appeal is substantively unreasonable.
- 6.171 Furthermore, the Appellants have failed to refer to the significant material consideration of the Appeal Decision at The Hovel (cf. Appendix H), which was highlighted within the Late Items Report for the Planning Committee on 17 December 2024 (cf. Appendix A).
- 6.172 For the avoidance of doubt, the dismissed appeal proposal at The Hovel consisted of a self-build and custom housebuilding proposal for one single storey dwelling that was located in an unsustainable location, which was dependent on the private car for travel in the designated open countryside and located adjacent to a large existing property. The LPA considers that this decision has far greater relevance to the current proposals than a scheme for 95 dwellings providing affordable homes in excess of that required on the edge of a settlement boundary.
- 6.173 Paragraph 15 of The Hovel Appeal Decision states:
- "The proposal is for a self-build house upon this plot. However the very nature of introducing more physical development to this location would cause harm, whether this be a self-build property or not. Although some weight must be given to the general benefits of self-build the harm in this case would outweigh such benefits."*
- 6.174 Whilst it is appreciated that every application must be determined on its own merits, the specific factors, including the reasons for refusal, of the dismissed proposal were almost identical to the current appeal proposal.
- 6.175 It is noted that the Appellants have not acknowledged The Hovel appeal decision despite the fact that it was highlighted by the Local Planning Authority at the December 2024 Planning Committee where planning application 24/00322/FUL was determined. It is considered that the Appellants, who have been professionally advised throughout the application process, have been substantively unreasonable in appealing the refusal of planning application 24/00322/FUL without appropriate evidence to justify their case while at the same time ignoring appeal decisions of particular relevance to their circumstances and seeking to draw on support from appeal decisions that are of little relevance to their appeal.
- 6.176 This is exacerbated by the fact that, in light of all the evidence detailed above and within the Committee Reports, the Paragraph 47 of the Appellants' Statement

suggests that *“The appeal proposal represents a high level of sustainable development.”* This erroneous statement is completely unsubstantiated and demonstrates complete disregard for local and national planning policy. This is substantively unreasonable.

- 6.177 In summary, the Local Planning Authority have made comments in light of all the material considerations raised by the Appellants within this appeal and throughout the determination of planning application 24/00322/FUL. However, the Appellants have failed to have any regard to the material considerations of this appeal, including the two Committee Reports prepared by the Local Planning Authority, the advice provided by Design Midlands, the recent and very similar planning appeal decisions, and the planning history of the site.
- 6.178 No appropriate evidence has been provided to justify any of the three reasons for the refusal of the planning application. Instead, the Appellants have solely relied on the weighting of the benefit of the provision of a self-build and custom house-build development to the Council’s supply. As highlighted at Paragraph **Error! Reference source not found.** of this Statement, the Right to Build Task Force’s Custom and Self-Build Planning Guidance confirmed that a development contributing to custom and self-build housing is unlikely on its own outweigh landscape or environmental harms.
- 6.179 Ultimately, the dismissed appeal at The Hovel (cf. Appendix H), is a significant material consideration within the determination of this appeal as it is a recent appeal decision that is very similar to the current appeal site and proposal where the Inspector decided that the proposal was unacceptable, and circumstances have not materially changed in the intervening period.

7. CONCLUSION

- 7.1 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.
- 7.2 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, DM10, and DM17 of the SADMP, in accordance with Paragraph 232 of the NPPF.
- 7.3 In the determination of this appeal, the ‘tilted’ balance in Paragraph 11(d) of the NPPF is triggered whereby 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 this Framework taken as a whole, having particular regard to key policies.

- 7.4 It is unlikely that the Local Planning Authority is able to deliver a five-year supply of land for housing. Given the minor contribution of one dwelling to the Borough's supply of housing land, this benefit should be afforded limited weight in the planning balance.
- 7.5 Furthermore, given the small scale of the development, the economic and social benefits associated with the construction of one dwelling should attract limited weight in the planning balance.
- 7.6 It is appreciated that the development can contribute to the Council's limited unmet need for self-build and custom housebuilding, which is a benefit secured via a Unilateral Undertaking. In accordance with recent appeal decisions, the benefits associated with providing one dwelling to the Council's supply of self-build and custom housebuilding developments should attract moderate weight in the planning balance.
- 7.7 Notwithstanding the above, Paragraph 3 of the NPPF confirm that the Framework must be read as a whole.
- 7.8 The development represents unjustified residential development in an unsustainable location that fails to promote sustainable transport, the best use of public transport, nor provide any safe walking and cycling access to services and facilities. The future occupants of the scheme are therefore highly likely to be dependent on private motorised transport to meet their day-to-day needs, and this results in significant environmental harm.
- 7.9 As a result, the proposal is contrary to, and in conflict with, the four of the five applicable Key Policy Paragraphs, and overarching environmental and social objectives of sustainable as defined, within the NPPF, as well as Chapters 9 and 15, and Policies DM4 and DM17 of the SADMP.
- 7.10 Furthermore, the development lies outside of any identified settlement boundary and in an isolated location within the countryside. By virtue of its size, siting, scale, design, and use of materials, the development results in a detrimental and irreversible, urbanising and domesticating effect on the intrinsic value, beauty, open character, and landscape character of the countryside, the Sense Lowlands Character Area, and the surrounding area, as well as views from Public Footpath T10. This harm is compounded by the extensive hard surfacing associated with the proposed driveway, the significant loss of existing mature trees within the site, and the scheme's poor relationship to the existing residential structures near the site. Ultimately, the benefits of the development of one dwelling do not significantly and demonstrably outweigh this harm.
- 7.11 Therefore, the proposal is contrary to, and in conflict with, Key Policies Paragraphs 84, 129 and 135 and Chapters 2, 9, 11, 12, and 15 of the NPPF, Policies DM4 and DM10 of the SADMP, Policies S1, S2, S8, and S10 of the SPNP, the National Design Guide, and the Council's Good Design Guide. As a result, the scheme is not well designed and fails to reflect local design policies and government guidance on

design. In accordance with Key Policy Paragraph 139 of the NPPF, it is recommended that the appeal proposal is dismissed.

- 7.12 In addition, due to the constraints of the site, including the existing trees, the proposal results in significant adverse impacts to the residential amenity of the future occupants of the scheme due to the inadequate provision of natural light to the principal windows to habitable rooms within the proposed dwelling and to the property's associated private outdoor amenity space.
- 7.13 Therefore, the development is considered to be in conflict with Key Policy Paragraph 135 of the NPPF, Policy DM10 of the SADMP, Policy S8 of the SPNP, and the Good Design Guide.
- 7.14 The Appellants have been substantively unreasonable throughout the process of this Appeal and this evidenced by the fact that no appropriate evidence has been provided to justify any of the three reasons for the refusal of the planning application, and the Appellant has failed to have any appropriate regard to the material considerations of this appeal, including the two Committee Reports prepared by the Local Planning Authority, the advice provided by Design Midlands, the recent and very similar planning appeal decisions, and the planning history of the site.
- 7.15 By virtue of these factors, and in accordance with Paragraphs 11(d) and 139 of the NPPF, it is requested that the appeal is dismissed because the benefits of this development do not outweigh the irreparable, significant adverse harm that the development has on the intrinsic value and beauty of the open character and landscape character of the countryside when assessed against the policies in the NPPF taken as a whole.
- 7.16 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 Unilateral Undertaking, and the following conditions and reasons suggested below.

8. CONDITIONS

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details received by the Local Planning Authority as follows:

- Proposed Elevations 1 to 4 (24053 P006) (submitted: 23.10.2024)
- Proposed Elevations 5 to 9 (24053 P007) (submitted: 23.10.2024)
- Proposed Floor Plan (24053 P003) (submitted: 23.10.2024)
- Proposed OS and Block Plans (24053 P001) (submitted: 23.10.2024)
- Proposed Roof Plan (24053 P004) (submitted: 23.10.2024)
- Proposed Site Context Plan (24053 P002) (submitted: 23.10.2024)
- Proposed Site Plan (24053 P005) (submitted: 23.10.2024)
- Proposed Tree Removal Plan (24053 P008) (submitted: 23.10.2024)
- Visibility Splay Dwg 04 (submitted: 03.04.2024)

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).

3. The development hereby permitted shall not be first occupied until such time as the access arrangements and visibility splays shown on Visibility Splays Dwg 04 (submitted: 03.04.2024) have been implemented in full. Once provided the approved access arrangements and visibility splays shall be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/ verge/ highway.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, and to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network in the interests of general highway safety and in accordance with the National Planning Policy Framework (2024).

4. The development hereby permitted shall not be first occupied until such time as the parking and turning facilities have been implemented in accordance with the Proposed Site Plan (24053 P005) (submitted: 23.10.2024). Thereafter the onsite parking (and turning) provision shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (2024).

5. The development hereby permitted shall not be first occupied until such time as the access drive has been surfaced with tarmac, or similar hard bound material (not loose aggregate) for a distance of at least 11 metres

behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2024)

6. The development hereby permitted shall not be first occupied until such time as a scheme of hard and soft landscaping works, including the recommended planting with Paragraph 6.1.4 of the Arboricultural Impact Assessment (V1a) (submitted: 20.11.2024), and boundary treatments, for the site including an implementation scheme, has been submitted in writing to, and approved in writing by, the Local Planning Authority.

The scheme shall be carried out in full accordance with the approved landscaping scheme in the first planting and seeding seasons following the occupation of the development or the completion of the development, whichever is sooner. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period, any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The development hereby permitted shall not be first occupied until such time as a Biodiversity Enhancement Scheme in accordance with the recommendations of Section 4.4 of the Phase 1 Preliminary Ecological Appraisal (submitted: 03.04.2025) has been submitted to, and approved in writing by, the Local Planning Authority. Any enhancement measures need to be shown on all relevant submitted plans. All works are to proceed strictly in accordance with the approved scheme.

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).

8. The development hereby permitted shall not be first occupied until such time as a scheme for the provision of waste and recycling storage and collection areas across the site shall be submitted to, and be approved in writing by, the Local Planning Authority. The scheme shall address accessibility to storage facilities and confirm adequate space is provided at the highway boundary to

store and service wheeled containers. The development shall be implemented in accordance with the approved scheme prior to first occupation.

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.

9. No vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 11 metres of the highway boundary.

Reason: To enable a vehicle and trailer to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public highway in accordance with the National Planning Policy Framework (2024).

10. The new vehicular access hereby permitted shall not be used for a period of more than 3 month from being first brought into use unless the existing vehicular access onto Bosworth Road has been permanently closed permanently. The details of this and the closure of the existing access shall be submitted to, and approved in writing by, by the Local Planning Authority.

Reason: In the interests of highway and pedestrian safety in accordance with the National Planning Policy Framework (2024).

11. Notwithstanding the provisions of Classes A, AA, B, C, D, and E of Part 1 of Schedule 2 of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To protect the character of the surrounding area and to safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. The development shall be carried out in full accordance with the Precautionary Measures during Development recommendations detailed at Section 4.3(b) of the Phase 1 Preliminary Ecological Appraisal (submitted: 03.04.2025).

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).

13. 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 be 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).

14. None of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority for a period of five years from the date of this planning permission. If any trees or hedges to be retained die or are damaged, removed, or seriously diseased, a replacement shall be planted at the same place and that tree or hedge shall be of a similar size and species to the specific tree or hedgerow that requires replacing.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. APPENDICES

- 9.1 (See separate documents)
- 9.2 **Appendix A** Late Items for the December 2024 Planning Committee
- 9.3 **Appendix B** Supplementary Statement of Common Ground for APP/K2420/W/24/3348387
- 9.4 **Appendix C** Appeal Decision – Land East of The Common, Barwell (APP/K2420/W/17/3188948)
- 9.5 **Appendix D** Appeal Decision – Land at Crabtree Darm, Hinckley Road (APP/K2420/W/19/3222850)

9.6	Appendix E	Appeal Decision – Land off Sketchley Lane, Burbage (APP/K2420/W/20/3260227)
9.7	Appendix F	Appeal Decision – Land at Wykin Lane, Stoke Golding (APP/K2420/W/20/3262295)
9.8	Appendix G	Appeal Decision – Land to the South of Cunnery Close (APP/K2420/W/20/3265133)
9.9	Appendix H	Appeal Decision – Land Northeast of the Hovel, Spinney Drive (APP/K2420/W/23/3348843)
9.10	Appendix I	Team Leader Email to Appellant on 10 December 2023
9.11	Appendix J	Design Midlands' Terms of Reference
9.12	Appendix K	Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] (EWCA Civ 610)
9.13	Appendix L	Bramshill Park v SSHCLG [2021] (EWCA Civ 320)
9.14	Appendix M	Appeal Decision – The Barn, Seagrave Road, Thrussington (APP/X2410/W/24/3343390)
9.15	Appendix N	Appeal Decision – The Cottage, 92 Woods Lane, Belton (APP/G2435/W/23/3330838)
9.16	Appendix O	Appeal Decision – Land North of North Hays, Wigborough (APP/E3335/W/23/3320034)
9.17	Appendix P	Appeal Decision – The Stables, Chaigley Road, Longridge (APP/T2350/W/19/3235162)