

**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL UNDER SECTION 78**

**Final Comments prepared for Mr & Mrs Morley against the refusal of application 25/00883/OUT by Hinckley & Bosworth Borough Council for Outline planning permission (access only) for the erection of a C3 self-build dwelling and associated amenity space and parking (Resubmission of 24/00872/OUT) land south west of Sibson Road, Sheepy Parva, Leicestershire, CV9 3RE (Easting 433254 Northing 301328).**

**Application 25/00883/OUT was received by the LPA 15th September 2025 and refused by notice dated 11th November 2025.**

**July 2026**

**PINS 6009220**

**Simon Cheshire BA(Hons) DipTP MRTPI**

1. As noted within the Grounds of Appeal, currently the policies the LPA relies upon regarding the supply of housing are contained within 2009 Core Strategy and the Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016) and the LPA are unable to demonstrate a 5YHLS, which is one of the key circumstances for the engagement of the 'tilted' balance as per Paragraph 11(d).
2. In addition, and in relation to the Emerging Local Plan for 2024-2045, Hinckley & Bosworth Borough Council is proposing to publish the Regulation 19 (Pre-submission) Local Plan for public consultation summer 2026. Given its early stage of preparation, the Emerging Local Plan is attributed no weight when determining this appeal.
3. As such the appeal allowed via PINS reference 6004626 59 Kennel Lane, Witherley, Leicestershire CV9 3LJ, submitted as Appendix 6 of the current Grounds of Appeal on the 17<sup>th</sup> June 2026, represents the most up to date 5YHLS position and Local Plan and Neighbourhood related to the supply of housing across the Borough.
4. The SNP is crucially silent on the provision of self-build and custom housing and due to the changes in National Policy and the Council's requirement to take on a portion of Leicester City Council's unmet housing need, the Neighbourhood Plan does not meet its identified housing requirement or policy provision for specialist self-build / custom housing, therefore Paragraph 14 of the Framework is not engaged.
5. The position concerning Paragraph 14 is confirmed in the minutes of the Sheepy Parish Council Meeting 7th October 2025 included in Appendix 5 of The Grounds of Appeal that state:

*"The Parish Council became aware at the end of September that the Borough Council was to consider approving the revised draft Local Plan for consultation (Regulation 18) at its full Council meeting (1st October). This draft plan, amongst other things, identifies a specific site for proposed housing development (56 houses) in Sheepy Magna, a proposed large housing development of up to 10,000 houses near Norton-Juxta-Twycross and 3,500 new homes near Fenny Drayton (Lindley Meadow).*

*The proposal for a specific development site in Sheepy Magna is in contravention of the Sheepy Neighbourhood Plan (Made May 2022) (SNP). In the SNP, it was recognised that the emerging HBBC Local Plan would require the identification of additional sites for housing in the Parish and once this housing requirement was known, the SNP (and Parish Council) committed to undertaking a review of the SNP involving community consultation to identify one or more potential sites to meet this identified housing need. This commitment is explicitly stated in the SNP, with the text agreed with the Borough Council and the Planning Inspectorate's Independent Examiner.*

*The Parish Council wrote to object to the text in the draft Local Plan, and via our Borough Councillor asked that a motion (with an evidence-based justification) be put forward to amend it, before consultation started. The Parish Council's proposal was for the reference to the specific site in Sheepy Magna be removed from the plan and instead only the housing need (number) for the Parish be included. Thereby aligning the draft Local Plan with the Made SNP. Despite this request, the motion wasn't tabled at the full Council meeting, nor were our concerns raised at the meeting. The consultation version will therefore contain reference to a specific housing development site despite the Parish Council's best efforts.*

*However, the Parish Council has separately received correspondence from the Head of Planning offering to meet with the Parish Council and stating that 'they [HBBC] would be happy' to consider an alternative site(s) if one (or more) was put forward in a revised Neighbourhood Plan.*

*The Parish Council voted unanimously (as the Qualifying Body) to formally approve that a review of the Sheepy Neighbourhood Plan (SNP) be formally started, with the aim of allowing our community to be properly consulted on the identification of site(s) to meet future housing development needs and the necessary infrastructure improvements to ensure sustainability. Councillors also agreed to review the membership of the Neighbourhood Plan Steering Group and invite members of our community to join this group.*

*The Parish Council encourages all parishioners to look at the Local Plan consultation documents when they are published (17th October) and comment. The Parish Council would also like to hear your views. The consultation will run for 6 weeks.*

*ACTIONS – Parish Clerk to ensure HBBC Local Plan consultation is advertised on noticeboards and website. NP Steering Group to draft communication leaflet on Neighbourhood Plan review. Parish Clerk and Chair to liaise with HBBC Head of Planning to arrange meeting.”*

6. Notwithstanding the above, the SNP is out of date and is silent on the provision of self-build specialist housing and the tilted balance is triggered accordingly, and Paragraph 14 of the Framework does not currently apply, although this reality is not accurately reflected within the LPA Statement at paragraph 6.2 as below:

*“6.2 In accordance with Paragraph 14 of the NPPF, the LPA acknowledges that the Neighbourhood Plan was made less than five years from the date of this decision, and it contains policies and allocations to meet its identified housing requirement. Therefore, in his case, the adverse impact of allowing residential development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.”*

7. The SPNP does however note, Sheepy Parva adjoins Sheepy Magna on the B585 and are "twin settlements" only separated by the River Sence. In this respect, both Sheepy Magna and Sheepy Parva have equal accessibility via existing footpath linkages to all of the twin villages facilities and services.

8. There is no dispute between the two main parties that the Council cannot demonstrate a five-year supply of deliverable housing land or maintain an up to date Self-Build Register as demonstrated by the Marrons self-build appraisal cited in Appendix 3 and the approval of a single self-build proposal also subject to Policy DM4 via application 24/01155/FUL. The reliance on the private car for access to shops, places of education and employment, doctors and other facilities would be no different for the residents of the appeal site and the existing residents of Sheepy Parva and indeed Sheepy Magna.

9. The Framework accepts that the opportunities to maximise sustainable transport solutions will vary between urban and rural areas such as in this case. This means Sheepy Magna and Sheepy Parva are equally sustainable in terms of location and position within the LP settlement hierarchy. In this policy context the appeal scheme represents an integrated and sustainable development in accordance with paragraphs 73 and 83 of the Framework that state:

*“Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly.”*

And:

*“To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.”*

10. The issue of sustainability and the very close linkages between Sheepy Magna and Sheepy Parva are a matter of common ground as highlighted in paragraph 8.17 of the delegated report:

*“8.17 Overall, whilst there are limitations regarding the frequency of the bus service and requirement to use a shared surface to reach Sheepy Magna on foot/cycling, prospective occupiers of the proposal would have a genuine choice of sustainable travel modes to reduce the reliance on private cars. Therefore, the location of the proposed development with regard to access to services and facilities would be acceptable, as it would have access by a choice of modes of travel. This would promote sustainable patterns of development in accordance with Policy DM17 of the SADMP, and the Framework.”*

11. Indeed, this view was also shared by the previous Inspector (Appendix 1) at paragraph 14 below:

*“Consequently, given the particularities of the appeal site, I find that the location of the development, with particular regard to access to services and facilities, would be acceptable, as it would have access by a choice of modes of travel. This would promote sustainable patterns of development in accordance with Policy DM17 of the SADMP, and the Framework.”*

12. If Sheepy Magna is designated with the settlement hierarchy as a sustainable location for the potential growth of another 56 new dwellings, then by extension the “twin village” of Sheepy Parva must also logically fall within this category, wholly in accordance with paragraph 83 of the Framework.

13. In terms of the appeal site and its assimilation within the existing street scene, the previous delegated report included the comments below from the Conservation Officer:

*“The application site is an undeveloped pasture field that reflects the semi-rural character of the settlement edge of Sheepy Parva and sits comfortably within the wider settings of the two listed buildings. Access is the only matter for which a determination is sought, with all other matters reserved. A small section of front boundary hedgerow would need to be removed to provide a suitable vehicular access to the site. In my opinion the minor loss only of a typical and historic landscape feature would result in a negligible visual change within the setting of the two listed buildings and will not affect how their respective significance is appreciated or understood.(my emphasis) The access for the proposed development will therefore not cause harm to the significance of any designated heritage assets, so consequently the proposal accords with Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD, section 16 of the NPPF and the statutory duty of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990.*

*It should be noted that depending on the details of the appearance, landscaping, layout and scale of a proposed dwelling on the application site then there is the possibility that such a development would result in greater than negligible changes within the setting of the two listed buildings, so an assessment of the impact of the proposal on their significance will be required at the reserved matters application stage.”*

14. Given the self-build custom nature of the appeal proposal, a suitable Design Code could be applied to ensure a suitable and cohesive design outcome that would not cause material harm to the character of the settlement or countryside, where the Inspector concluded at paragraph 16 of the previous appeal (Appendix 1):

*“The appeal site is within proximity to two Grade II listed buildings, namely Barns at Manor Farm and Manor Farmhouse. Section 66(1) of the Act requires that I have special regard to the desirability of preserving the setting of the listed buildings. The Council found the proposal acceptable in terms of its effect on the setting of the listed buildings. Given the evidence before me, and the location of the appeal site in relation to the listed buildings I am also satisfied that the development would have a neutral effect on the setting of the listed buildings.”*

15. The comments of the Conservation Officer above confirm the principle of the residential development of the site is acceptable, subject to a suitable design solution that can be determined at the reserved matters stage. On the basis of no objection from the relevant statutory consultee in the form of the LPA Conservation Officer, significant weight should be given to the case of **Shadwell Estates v Breckland DC [2013]** that states:

*“a decision-maker should give the views of statutory consultees... “great” or “considerable” weight. A departure from those views requires “cogent and compelling reasons.”*

16. Given the above, it is considered the appeal site is a gap in the built form along Sibson Road and is clearly experienced and “read” as part of the village of Sheepy Parva, where there are houses to three sides of the appeal site. There is modern and substantial residential built development on the opposite side of Sibson Road in the form of Forest View which the appeal site does not extend beyond. The recently completed large domestic garage and gated access with tarmac surfacing associated with South Riding, has further increased the degree of urbanisation which materially alters the views into the historic Moat and Pond area within the curtilage of South Riding.

17. On this basis, there is no reason to suggest that an appropriate layout, scale, and design could not be secured at the Reserved Matters Stage, where the details would be capable of reflecting the surrounding context and built form and positively improving the character and appearance of the select part of Sibson Road. The limited geographic area would maintain the overall landscape character and would not result in a significant adverse effect, thereby according with criteria (i) of Policy DM4 and criteria (a) of Policy DM10.

### **The HBBC Self-Build Register**

18. The delegated report confirms the LPA cannot demonstrate and up to date self-build register and in this respect the *Right to Build Task Force Custom and Self-Build Planning Guidance PG3.3: NPPF and Right to Build legislation – Delivering appropriate permissions (January 2024 – Version 3)* states:

**“Where there are no policies and/or LPAs are not meeting their duty in relation to provision of CSB plots, the fact of an application delivering CSB plots should be given significant weight in the planning balance. Where there are no planning harms, it is possible that meeting the LPA’s statutory duties will be sufficient to indicate an approval, even in the case of a minor departure in relation to a local policy.(My emphasis)”**

***However, notwithstanding the above, where a council cannot demonstrate that plots are being secured there is an increased risk of approval by appeal and this should be considered in the context of the approach taken in terms of planning for sites and granting permissions. Availability of CSB plots should be a factor in the determination of the application and given significant weight in the planning balance.”(My emphasis)***

19. The proposed appeal development is judged by the LPA to conflict with the development plan when considered as a whole. However, there are material considerations, notably the provisions of the Framework and Primary Legislation in the form of the HBBC Self-Build Register, which indicate that the decision should be taken other than in accordance with the development plan.

20. Since the end of Base Period 10 on the 30th October 2025, it is now agreed common ground that the shortfall rolled over from Base Period 10 has increased from 5 in Base Period 9 to 17 in Base Period 11, which when added to the required 10 plots that need to be approved during Base Period 11, gives a current and increasing year on year shortfall of 27 plots that need to be approved by 30th October 2026, or in 4 months' time, and crucially this fact is not challenged or contested within the LPA Statement.

21. As noted within the Grounds of Appeal, the importance of such material considerations was demonstrated in relation the appeal decision that was allowed on the 4th July 2025 for the erection of a self-build dwelling, land between 118 and 124 Battram Road, Ellistown, Coalville, Leicestershire LE67 1GB included in Appendix 4, where in allowing the appeal the Inspector opined:

*“16. It therefore follows that the appeal site would not provide a suitable location for the proposed dwelling having regard to the spatial strategy of the development plan, whether the site constitutes PDL or not and the accessibility of the site. As such, it would be contrary to Policies S2 and S3 of the LP, the aims of which I have outlined above.”*

22. However, balanced against the above, the “Battram” Inspector concluded:

*“17. It is common ground between the main parties that the Council has a significant unmet need for self-build and/or custom-build housing (SBCB housing), which is required by the Self-Build and Custom Housebuilding Act 2015 (as amended) (the Act). This is a matter of serious concern and the provision of housing in this respect should be attributed significant weight. Despite the proposal being for just a single dwelling and the Council advising of other applications currently being considered for SBCB housing, it would assist in reducing the Council's deficit and would be secured by the UU submitted with this appeal.”*

23. The “Battram” Inspector viewed the issue of the shortfall in the supply of self-build housing as a matter of serious concern, and that the provision of this type of specialist housing should be attributed significant weight. A signed and completed UU was submitted as part of the appeal documents and it is unclear why the LPA disputes this, other than it can only be treated as an oversight.

24. For the above reasons, it is considered the appeal site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development, with particular regard to its relationship to the existing settlement of Sheepy Parva and indeed Sheepy Magna. In locational and sustainability terms, there is no insurmountable conflict with Policy DM4, that allows for development adjacent to the boundaries of existing settlements as cited in Appendix 2, 3,4 and 6 where they would enhance or maintain the vitality of rural communities and where the development is proportionate in scale to the settlement and would conserve and enhance the landscape

character, by respecting and reflecting the existing pattern, character, and appearance of its setting, thereby constituting sustainable development.

25. This conclusion on the application of Policy DM4 under such circumstances is reflected in the Kennel Lane Appeal decision included in Appendix 6 where at paragraph 13 the Inspector notes:

*“National Planning Policy Framework (the Framework) and the National Design Guide (2020) (NDG) both advocate well-designed places that respond positively to prevailing character and setting. The building would be set back so as not to generate formal ribbon development.”*

26. As noted above in paragraphs 13 and 14, whilst there would be a marginal degree of “urbanisation”, there is no reason to suggest that an appropriate layout, scale, and design could not be secured via suitable Design Code and the Reserved Matters stage as suggested by the Conservation Officer and previous Inspector.

### **Conclusion**

27. The specific material considerations of this appeal clearly demonstrates the appeal proposal is situated within the twin village of Sheepy Parva and is within walking distance to all of the shared amenities and facilities of Sheepy Magna and is therefore equally sustainable in this respect. The evidence provided by Marrons in Appendix 3 of the Grounds of Appeal, demonstrates the Council has only permitted 16 self-build plots since 2016, an average of 2 per annum, and has yet to meet its statutory obligations in permitting sufficient plots to meet numbers of its register, within a 3 year period.

28. As a result paragraph 11 d) (ii) fully applies, and although there would be some limited harm arising from the “ evolving changing appearance” of the appeal site, this could not be considered materially significant or detrimental, and instead would be wholly consistent with the recent residential planning history related this area of Sibson Lane.

29. Based on the above, the adverse impacts of the appeal proposal do not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole, particularly as the proposal is considered pass the test contained in Paragraph 11 d) (ii). Therefore, the appeal proposal does benefit from the presumption in favour of sustainable development where the proposal will contribute to reducing the current and increasing year on year shortfall of 17 self-build and custom plots within the Borough on a meaningful material basis, when weighed within the planning balance.

30. Consequently, the harm from the conflict with the development plan would not significantly and demonstrably outweigh the benefits that would arise from the development, when assessed against the policies in the Framework as a whole. Paragraphs 124 and 125 of the Framework state that planning policies and decisions should promote an effective use of land in meeting the need for homes and accordingly, the specific material considerations and circumstances cited above, indicate the decision should be taken other than in accordance with the development plan, and the appeal can be respectfully allowed on this basis.