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## Appeal Decision

Site visit made on 22 June 2026

**by Martin H Seddon BSc MPhil DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 11 August 2026**

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**Appeal Ref: 6005892**

**Land located to the east off Barwell Lane, Kirkby Mallory, Leicestershire LE9 7QA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr J Lawrence against the decision of Hinkley and Bosworth Borough Council.
  - The application Ref is 23/00824/OUT.
  - The development proposed is erection of up to 7 dwelling houses and garaging.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appellant has made a claim for an award of costs against Hinkley and Bosworth Borough Council. That is the subject of a separate decision notice.
3. The application is in outline with all matters reserved for later consideration, including the means of access. The appellant has submitted a unilateral obligation, enforceable by the Council to ensure that that no fewer than three of the dwellings shall be provided as self-build dwellings. I have determined the appeal on the basis that three dwellings could be secured as self-build plots.

### Main Issues

4. The main issues are:
  - the effect on the character and appearance of the countryside, and
  - whether the appeal site would be suitable for the proposed development having regard to the development plan and national planning policy.

### Reasons

#### *Character and appearance of the countryside*

5. The appeal site is a field used for horse grazing located to the side of a row of dwellings at Barwell Road and separated from Shilton Road by a small adjacent field. It is located at the southern edge of Kirkby Mallory and in the open countryside.
6. The Landscape Character Assessment (HB LCA) for Hinckley and Bosworth Borough (LUC 2017) placed Kirkby Mallory in Category D: Newbold and Desford

Rolling Farmland. The landscape character type of that category was described as a sparsely settled area of undulating mixed farmland with local variations in topography influenced by small streams. The HB LCA Report – Landscape Sensitivity Assessment: The sensitivity of areas of pressure (LUC 2017), found that key sensitivities and values include that the rural settlement pattern of compact and nucleated agricultural settlements connected by a network of rural lanes was largely unspoiled. Additionally, that the rural landscape and sense of tranquillity was sensitive to change from further development.

7. Turning to the appellant's Landscape Assessment, I accept that the appeal site has no special local or national landscape designations and is screened by mature hedges, which could be enhanced by additional planting. The appellant's Landscape Assessment concluded there would be minimal short term and long-term adverse landscape and visual effects from the proposed development. In that respect it added that these are the range of effects that are common to and typically expected of new housing development and are not considered to be significant in the reading of policy DM4(i) of the Council's Site Allocations and Development Management Policies DPD 2016 (DPD). The Council has referred to what it considers to be significant and extensive medium to long distance views of the site from Peckleton Road and that new development on the site would be clearly viewable and prominent as an extension to the existing built development limits.
8. From my inspection of the site and its surroundings I find that the proposed development would urbanise the tranquil, open rural nature of the site and harm the setting of the hamlet. It would conflict with policy DM4 of the DPD which sets out categories of development in the countryside which are considered to be sustainable, and which seeks to ensure that development does not have a significant adverse effect on the intrinsic value, open character, and landscape character of the countryside. It would also conflict with policy DM10 of the DPD insofar as it would fail to complement or enhance the character of the surrounding rural area.

#### *Location*

9. The Hinkley and Bosworth Core Strategy 2009 (CS) indicates that the focus of new development will be in the Hinkley sub-regional centre where there is a concentration of services and accessibility is maximised. Kirkby Mallory is a small rural settlement close to Mallory Park and is identified as a Rural Hamlet. The CS advises that Rural Hamlets have limited, if any services and generally rely on Key Rural centres or surrounding urban areas for schooling, employment and the provision of goods and services.
10. The appellant considers that the site is in a sustainable location and not an isolated location because of the amount of services, facilities, and employment opportunities within walking distance. Reference is also made by the appellant to an appeal<sup>1</sup> dismissed at Nailstone regarding the level of local services and which was raised by the Council. However, in respect of Kirkby Mallory, apart from the Mallory Park circuit, these services and facilities are very limited, including a small general store, church, alternative education centre, and the Mallories bar/restaurant hotel. There are no public transport services and hence private transport would be necessary to access the goods, services, and facilities in the nearest settlements of Earl Shilton and Hinckley.

11. The CS indicates that because of the limited services in Rural Hamlets development will be confined to infill housing development, local choice schemes, and the conversion of agricultural buildings to employment use. The proposal meets none of these criteria and conflicts with the aims of the CS. It is not in a sustainable location in view of its minimal services and facilities and poor accessibility, with a need for residents to rely on private transport to reach a wider appropriate range of goods, services, and employment opportunities.
12. The appellant has referred to other appeal decisions<sup>2</sup> for development allowed at Wychavon and West Oxfordshire. All these developments included elements of self-build and/or custom-built houses, the benefits of which were considered within the planning balance, along with factors including whether there was harm to the countryside location, retention of a business use, extent of any housing land shortage and economic and social benefits.
13. The Council has also referred to appeal decisions<sup>3</sup> for development dismissed at Market Harborough, Desford and Atherstone and allowed at Hinkley. These proposals included a range of issues including self-build and custom-built houses, heritage considerations, housing land supply and the effect on the character and appearance of the particular area. However, the proposals and site context in all the above cases would have been different to those before me in this appeal. I must determine the appeal before me having regard to the particular circumstance of the site and its surroundings having regard to the development plan and national planning policies.
14. The proposal would therefore conflict with policy DM17 of the DPD because the development would not be located where the need to travel would be minimised and where the use of sustainable modes of travel can be maximised.

### *The Planning Balance*

15. The Council has advised that it cannot demonstrate a five-year housing land supply, and the latest figures in April 2025 were expected to demonstrate that the Council has a housing land supply of up to 3.95 years. The Council's failure to demonstrate a five-year housing land supply means that the most relevant development plan policies for determining the appeal are out of date. Paragraph 11 of the Framework indicates that: (d) where the policies which are most important for determining the application are out-of-date, granting permission unless (i) the application of policies in the 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 the 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.

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1. APP/K2420/W/23/3317284 2. APP/H1840/W/19/3241879, APP/H1840/W/19/3244074 and APP/D/3125/W/21/3274197 3. APP/F2415/W/24/3338486, APP/K/4250/W/24/3357989, APP/K2420/W/25/3364808, APP/K2420/W/25/3361154 and 600109.

16. The appellant has referred to the inclusion of the site as part of a larger area next to Kirkby Mallory in the Strategic Housing and Economic Land Availability Assessment (SHELAA) in 2022. However, the SHELAA is an evidence based document to inform development plan making and is not a decision making document. It does not in itself determine whether or not a site should be granted planning permission or allocated for development.
17. The proposed development would provide 4 market dwellings and 3 self-build homes as additional benefit making a modest provision towards the housing land supply. There would also be economic benefit in terms of employment and local expenditure from housing construction. However, the site is located in the countryside outside the development boundary for Kirkby Mallory. There is no provision of affordable homes, and in view of the limited services and facilities in Kirkby Mallory there would be a need for any future residents to rely on private transport. The proposal would not represent directing development to a sustainable location and would harm the character and appearance of the countryside. Therefore, the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

### **Conclusion**

18. For the reasons given above, I conclude that the proposal conflicts with the development plan as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal should be dismissed.

*Martin H Seddon*

INSPECTOR