

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 JOHN ROUX

**AGAINST THE REFUSAL OF PLANNING PERMISSION FOR A NEW BUILD
DETACHED DWELLING**

AT

**LAND ADJACENT TO 29 ELIZABETH ROAD, HINCKLEY, LEICESTERSHIRE
LE10 0QY**

HINCKLEY AND BOSWORTH BOROUGH COUNCIL REFERENCE

25/00080/FUL

THE PLANNING INSPECTORATE REFERENCE

APP/K2420/W/25/3367497

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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 a new build detached dwelling at Land Adjacent to 29 Elizabeth Road, Hinckley.

2. DESCRIPTION OF THE APPEAL SITE, THE SURROUNDING AREA, AND THE PROPOSAL

The Appeal Site

- 2.1. The appeal site is located within the identified settlement boundary of Hinckley. It is a rectangular plot of land currently vacant of any structures, excluding only the boundary treatments in the form of high fencing that surrounds the site. The high fencing surrounding the site is a combination of established close-boarded wooden fencing and temporary metal construction site fencing.
- 2.2. The appeal site measure 18.9 metres in width by 13.85 metres in depth. The land previously formed part of the rear garden of 62 Middlefield Lane before being subdivided, according to aerial imagery, some time between 2011 and 2016.
- 2.3. The appeal site fronts Elizabeth Road which is an adopted and unclassified road subject to a 30mph speed limit. The site does not benefit from an existing dropped kerb to Elizabeth Road.
- 2.4. The character of the area is largely residential with a variety of housing styles in the wider area. The immediate surrounds along Elizabeth Road are typically comprised of single storey detached dwellings. To the west of the site is 62 Middlefield Lane which is a detached rendered chalet bungalow with gable roof and previous rear extensions. To the north are a series of detached brick bungalows set back from the highway with garages to the front or side. The gardens of dwellings in the area are typically generously sized and their form generally deep and rectangular.
- 2.5. The dwelling at 29 Elizabeth Road is the only adjacent dwelling that addresses Elizabeth Road from the south, as the appeal site does. The dwelling at 29 Elizabeth Road is a detached brick bungalow with a clipped gable roof. It is sited on a square plot created from the former rear gardens of 27 Elizabeth Road, however it has a considerably larger site area than the appeal site.

The Appeal Proposal

- 2.6. This appeal proposal seeks full planning permission for a new build detached dwelling at land adjacent to 29 Elizabeth Road, Hinckley. To facilitate this development, the scheme creates a new access onto Elizabeth Road. The detached dwelling is a three-bedroom bungalow with front box dormer, with a total footprint of 93 square

3. SITE HISTORY

3.1. 19/00198/OUT

- Erection of one dwelling (outline – all matters reserved)
- Refused
- 18.04.2019

This outline application for the erection of one dwelling with all matters reserved within the appeal site was refused for the following reasons:

1. By virtue of the small plot size in relation to the prevailing character of plots within the surrounding area, the proposed new detached dwelling and associated access onto Elizabeth Road would introduce a scale of development that would be an over-development of the site. The proposed plot size would compromise and dilute the existing established character and distinctiveness of the locality, resulting in a development of intensity over and above that appropriate to the locality. As a result, the principle of development would be inconsistent with the established surrounding landscape and character of the locality contrary to Policy DM10 of the Site Allocations and Development Management Policies DPD.
2. The proposed new detached dwelling and associated access onto Elizabeth Road would introduce a scale of development that would result in a wholly inadequate level of residential amenity space for future occupiers and would give rise to potential harm to neighbouring residential amenity in the form of an overbearing and dominant impact. The proposed development would be to the detriment of the wellbeing of both future and neighbouring occupants, contrary to Policy DM10 of the Site Allocations and Development Management Policies DPD.
3. The application site would fail to accommodate a sufficient level of off-street parking in accordance with highways safety and parking standards and thus would be contrary to Policies DM17 and DM18 of the Site Allocations and Development Management Policies DPD.

The decision was appealed under APP/K2420/W/19/3239130 (c.f. Appendix A). Subsequent to indicative plans being provided by the appellant, the appeal decision described the proposal as being for a ‘proposed bungalow’. As per those indicative plans, the proposed bungalow in question had a smaller floor space than the proposed dwelling in this appeal proposal.

In the appeal decision for APP/K2420/W/19/3239130, the Inspector observed that the site as it stood contributed positively to the spaciousness of the area and that a dwelling would appear “*artificially shoehorned*” into the available space. The Inspector concluded that the proposal would be “*harmful to the character and appearance of the area*”, “*would fail to provide acceptable living conditions for future occupiers with specific regard to the provision of acceptable private garden space*”, and that the appeal site was “*simply too small to accommodate the proposed development*”.

3.2. 22/00755/FUL

- Proposed erection of a “Later Living” retirement bungalow
- Refused
- 05.05.2023

This planning application for the erection of a “Later Living” retirement bungalow was refused for the following reasons:

1. By virtue of the small plot size in relation to the prevailing character of plots within the surrounding area, the proposed new detached dwelling and associated access onto Elizabeth Road would introduce a scale of development that would be a significant overdevelopment of the site. The proposed plot size would compromise and dilute the existing established character and distinctiveness of the locality, resulting in a development of inconsistent intensity over and above that appropriate to the locality. As a result, the development would have a significant detrimental effect on the character and appearance of the surrounding area contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document and Section 12 of the NPPF 2021.
2. The proposed development would introduce a scale of development that would result in a wholly inadequate level of residential amenity space for future occupiers and would give rise to potential harm to neighbouring residential amenity in the form of an overbearing and dominant impact. The proposed development would be to the detriment of the wellbeing of both future and neighbouring occupants, contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document and the requirements of paragraph 130f) of the NPPF 2021.
3. The application site would fail to accommodate a sufficient level of off-street parking in accordance with highways safety and parking standards and thus would be contrary to Policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document and the Leicestershire Highways Design Guide.

The Planning Officer in their delegated report for this application observed that the proposed dwelling was larger than the indicative dwelling proposed in the prior appeal decision, for which the Inspector had deemed the site too small to accommodate.

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).

5. LOCAL POLICIES:

5.1 The Development Plan policies referred to for the purposes of the application were:

5.2 Core Strategy (2009):

- Policy 1: Development in Hinckley
- Policy 16: Housing Density, Mix and Design

5.3 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- 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 Other Relevant Guidance:

- Good Design Guide (GDG) (2020)
- Leicestershire Highways Design Guide (LHDG) (2024)
- Technical Housing Standards – Nationally Described Space Standards (2015)

6. THE CASE FOR THE LOCAL PLANNING AUTHORITY

6.1 The planning application was refused by Hinckley and Bosworth Borough Council on 31 March 2025 under delegated powers for the following reasons:

1. By virtue of the small plot size in relation to the prevailing character of plots within the surrounding area, the proposed new detached dwelling and associated access onto Elizabeth Road would introduce a scale of development that would be a significant overdevelopment of the site. The proposed plot size would compromise and dilute the existing established character and distinctiveness of the locality, resulting in a development of inconsistent intensity over and above that appropriate to the locality. As a result, the development would have a significant detrimental effect on the character and appearance of the surrounding area contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Section 12 of the National Planning Policy Framework (2024).
2. The proposed development would introduce a scale of development that would result in a wholly inadequate level of residential amenity space for future occupiers and would give rise to significant harm to neighbouring residential amenity in the form of an overbearing and dominant impact. The proposed

development would be to the significant detriment of the wellbeing of both future and neighbouring occupants, contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the requirements of Paragraph 135(f) of the National Planning Policy Framework (2024).

- 6.2 It is considered therefore that the main planning issues in relation to this appeal are the adverse effects of the proposed development on the character of the surrounding area and inadequate residential amenity for adjoining and future occupiers.

Determination of the Appeal Proposal

- 6.3 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 NPF 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.
- 6.4 The Council's 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 is due to be published sometime 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.
- 6.5 Nevertheless, as confirmed at Paragraph 8.10 of the Delegated Officer Report, the age of the relevant housing policies within the adopted Core Strategy are out of date. Therefore, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered within the determination of this application.
- 6.6 However, as highlighted by Paragraph 8.3 of the Delegated Report, in accordance with Paragraph 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.
- 6.7 It is noted that while the Appellant has critiqued the age of the existing policies, they have not sought to argue that these policies are not consistent with the NPPF.
- 6.8 It is therefore considered that Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) attracts full weight in the planning balance. This assertion has been supported for Policy DM10 of the SADMP by the Inspector at Paragraph 22 of the dismissed appeal

decision of application 24/00275/OUT (APP/K2420/W/24/3351678) at 21 Greenmoor Road, Burbage (c.f. Appendix B).

- 6.9 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.
- 6.10 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).
- 6.11 It is noted that Key Policy Paragraphs 66, 84, 91 and 110 of the NPPF are not applicable in these site-specific circumstances.
- 6.12 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.
- 6.13 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 (as contained in the National Design Guide and National Model Design Code), taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 6.14 In Paragraph 6.9 of their Appeal Statement, the Appellant references the Nationally Described Space Standards in demonstration of the appeal proposal's ability to meet amenity standards. This is predicated on the Appellant's statement within Paragraph 6.9 that there is an absence of any local supplementary planning guidance to otherwise guide a position on design and amenity.
- 6.15 The Local Planning Authority notes that this statement is incorrect. The Appellant's statement overlooks entirely the Council's Good Design Guide (2020) Supplementary Planning Document (SPD) despite it being clearly referenced within the Officer's Delegated Report and having been demonstrated therein to be relevant to assessment of the appeal dwelling's amenity impact.

Impact upon the Character of the Surrounding Area

- 6.16 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.
- 6.17 Section 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 placed is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 6.18 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."*
- 6.19 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.
- 6.20 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.
- 6.21 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."*
- 6.22 Pages 14 and 15 of the Good Design Guide highlights the five key components of design are: access, layout, space, appearance, and landscape.
- 6.23 The Good Design Guide confirms that new development should look to respond appropriately to the existing layout of buildings, streets, and spaces to ensure that adjacent buildings relate to each other, streets are connected, and spaces complement one another. Ultimately, the Good Design Guide states that consideration should be given to the ongoing maintenance of the street scene from the outset.

- 6.24 Paragraph 6.10 of the Appellant's Appeal Statement states that in terms of character, *"Elizabeth Road and the surrounding streets are a very eclectic mix of house types, house styles and plot sizes"*.
- 6.25 The Local Planning Authority refutes the notion that the mix of plot sizes in the locality are so varied that the appeal site would not represent a clear anomaly that would be clearly at odds with the existing established character of the area. It is considered that the sites in the surrounding area are characterised by far larger plot sizes than the appeal site, typically rectangular in shape with long, deep gardens to the rear. Though the plot of adjacent 29 Elizabeth Road contrasts somewhat from this established character, it is plainly of a considerably larger size than the appeal site and has the capacity to provide rear private garden space, which is not something that the appeal site can provide.
- 6.26 Furthermore, while there is a mix of dwelling types and styles in the surrounding area, the immediate street scene in this area of Elizabeth Road demonstrates a higher level of uniformity. The surrounding dwellings seen immediately in views to and from the appeal site in this area are largely detached bungalows set back from the highway with front garden space, of brick construction with gable or clipped gable roof forms and no front dormers. Front dormers are uncharacteristic of the area and the Council's Good Design Guide states on page 48, that they should be located on the rear of properties to minimise potential impact on the street scene and that dormers to the front of properties will only be acceptable where this is a prevailing feature of the surrounding context.
- 6.27 The Appellant asserts in Paragraph 5.10 of their Appeal Statement that the proposed dwelling is not in conflict with any of the clauses of DM10 of the SADMP insofar as it, *"meets the national standards in terms of internal and external space, will not impede privacy, light or air quality, will provide a visual enhancement to the street scene, will use materials which respect the local vernacular and will provide quality landscaping."*
- 6.28 The Local Planning Authority strongly refutes the claim that the proposal is not in conflict with DM10. Furthermore, it is not considered that the list of considerations in Paragraph 5.10 of the Appellant's Appeal Statement address the elements of concern identified with the design and character within the Officer's Delegated Report.
- 6.29 Elizabeth Road and Middlefield Lane are both considered to be characterized by large plots which benefit from ample off-street parking provision, clear front separation from the highway, and reasonably consistent private amenity spaces located to the rear of dwellings.
- 6.30 The appeal site cannot provide private amenity space to the rear of the appeal dwelling by virtue of the shallowness of the plot. For this same reason, the appeal dwelling is sited very close to the highway with very little space for visual relief by way of a front garden.
- 6.31 This results in the appeal dwelling being sited noticeably forward of the building line of 29 Elizabeth Road, the only other dwelling addressing Elizabeth Road on the

southern side of the highway, as well as being sited forward of the side elevation of 62 Middlefield Lane.

- 6.32 The uncharacteristic presentation of the site is exacerbated by the 6.3 metres of close-boarded timber fencing directly addressing the highway, necessitated by the contrived siting of the private amenity space to the side and front of the appeal dwelling.
- 6.33 The appeal proposal therefore cannot be argued to reflect the scale and layout of the surrounding area as required by DM10(c) of the SADMP.
- 6.34 The Appellant mentions more than once in their Appeal Statement the benefit provided to the appeal scheme through landscaping.
- 6.35 The Local Planning Authority notes that landscaping was not directly addressed in the Officer's Delegated Report nor was it a reason for refusal. Nonetheless, the Local Planning Authority would dispute the Appellant's position that the landscaping would bring any significant benefit to the appeal scheme.
- 6.36 The cramped layout of the site and the need to provide sufficient off-street car parking and enclosed amenity space to the side of the appeal dwelling leaves very little space for visible landscaping that would improve the perception of the dwelling within the street scene. The only landscaping shown in the proposal visible from Elizabeth Road is a low-level hedge forward of the projecting gable of the dwelling.
- 6.37 This low-level hedge is unlikely to be grown to any significant height by future occupiers due to the very close large lounge room window located directly behind. The constraints of the site and its layout do not offer any other opportunities for landscaping to the front of the appeal site. Landscaping shown within the private amenity space to the side of the appeal dwelling is limited to two triangular plantings of mixed shrubbery and a cherry tree.
- 6.38 The Appellant's Appeal Statement refers multiple times to the appeal site as an eyesore and relies repeatedly on the development benefiting the street scene through removal of an eyesore sight. In Paragraph 5.3 of the Appeal Statement the proposal is described as an *"opportunity to replace an eyesore site with a professionally designed 3-bedroom property, which takes it [sic] lead from surrounding properties in terms of materials, scale and height, and confirms with all National Space Standards."*
- 6.39 The Local Planning Authority note that the manner in which the site is currently maintained is at the discretion of the Owner. The development of an uncharacteristic dwelling on an evidently constrained site is not the reasonable conclusion to remediate the condition of an inappropriate site that has been allowed to decline. The notion that development should be allowed on a site because an appellant has allowed it to become unsightly is strongly rejected.
- 6.40 To summarise, the appeal proposal creates a detached dwelling on an undersized site with dimensions that are uncharacteristic within the surrounding area. The

constraints of the site necessitate the siting of the dwelling, its parking and its private amenity space in a layout wholly distinct from surrounding residential development.

- 6.41 By virtue of these factors, the appeal proposal would result in an incongruous form of development that would be significantly harmful to the character of the site and the surrounding area and which is contrary to, and in conflict with, Policy DM10 of the SADMP and Section 12 of the NPPF.

Impact upon Residential Amenity

- 6.42 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.
- 6.43 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.
- 6.44 The Council's Good Design Guide provides guidance on appropriate design for new residential development. This includes appraising the context of the surrounds, creating appropriate urban structures through streets, enclosure, open space and landscaping, parking provision, amenity space and design detailing. The Good Design Guide notes that overdevelopment of plots should be resisted and that infill sites should be of similar layout, scale and form to existing development while respecting existing building lines where possible. The appeal proposal is clearly at odds with this advice.
- 6.45 The Good Design Guide states that a principal window to a habitable room should be no less than 8 metres from the blank side of a single storey neighbouring property, rising to 14 metres for a two-storey property. In addition, the separation distance between two principal windows to habitable rooms should be a minimum of 21 metres. The exception to this is where amenity and overlooking are dealt with by good design.
- 6.46 The Good Design Guide seeks that dwellings for dwellings of three or more bedrooms provide a minimum of 80 square metres of outdoor amenity space with a minimum length of 7 metres.
- 6.47 Notwithstanding this, every application is to be assessed on its own merits depending on the individual characteristics of the site such as orientation, ground levels, window positions, garden size, and shape.
- 6.48 The Local Planning Authority notes that the Appellant's Appeal Statement demonstrates a failure to understand the amenity grounds for the refusal of planning application 25/00080/FUL. This is evidenced by Paragraphs 5.4, 5.10 and 6.8 of the Statement which infer that the second reason for refusal was related to internal space standards alone. The reference to Paragraph 135(f) and Footnote 51 of the NPPF

within Paragraph 5.4 of the Appellant's Appeal Statement also focusses on internal space standards.

- 6.49 Further, Paragraph 6.8 of the Appellant's Appeal Statement states that the two matters at the heart of the refusal are amenity in terms of ratio of development on the site and the internal space and external space, and the impact on the character of the local street scene. Notwithstanding the character and scale elements which have been addressed earlier, this statement is at odds with the amenity grounds detailed in the Officer's Delegated Report and are not considered to represent the amenity grounds at the heart of the matter.
- 6.50 Reason for Refusal 2 on the Decision Notice for planning application 25/00080/FUL outlines the amenity concerns raised by the proposal as being the inadequate provision of residential amenity space for future occupiers, impacts to residential amenity in the form of an overbearing and dominant impact, and the resulting significant detriment to both future and neighboring occupants' amenity.
- 6.51 For the avoidance of doubt, the Local Planning Authority confirm that the second reason for refusal of planning application 25/00080/FUL was not based on a shortfall in internal amenity space nor on any failure to meet the Technical House Standards - Nationally Described Space Standards (NDSS).
- 6.52 Paragraph 8.29 of the Officer's Delegated Report provides clarity on the inadequacy of the residential amenity space. It cites the layout of the private amenity space to the side of the appeal dwelling, in close proximity to the highway, and directly overlooked by the first-floor bedroom window of 62 Middlefield Lane. Paragraph 8.29 outlines that these factors would undermine the ability for this space to function as private garden space, thus providing insufficient private garden amenity space to future occupants.
- 6.53 Paragraphs 8.30 and 8.31 of the Officer's Delegated Report consider the impacts of the appeal scheme's proximity to windows on the existing adjoining dwellings and outline their insufficiency against the separation distances required by the Good Design Guide. This demonstrates the overbearing impact the appeal dwelling would have on the privacy and amenity of occupiers of adjacent buildings.
- 6.54 The Appellant's Appeal Statement Paragraph 5.10 asserts that the appeal proposal is not in conflict with Policy DM10 of the SADMP, insofar as it meets the national standards in terms of internal and external space, will not impede privacy, or light or air quality.
- 6.55 The Local Planning Authority strongly refute the claim that the proposal does not impede upon privacy and note that the Appellant's Statement does not attempt to demonstrate how privacy is maintained through the appeal scheme.
- 6.56 Furthermore, as noted above at paragraph 6.15, the Appellant's Appeal Statement incorrectly suggests that there are no relevant supplementary planning documents to consider. The Appellant has therefore not given any consideration to the appeal proposal against the amenity guidance in Council's Good Design Guide. Not only

does this overlook key supplementary planning design guidance, but it also therefore fails to address the Good Design Guide's position in satisfying the broader policies of Policy DM10.

- 6.57 Paragraphs 8.29, 8.30 and 8.31 of the Officer's Delegated Report outlines the harm against DM10(a) and (b) insofar as the proposal impacts upon the privacy and amenity of occupiers of adjacent buildings by introducing an overbearing built form on a constrained site that results in a loss of outlook from existing windows, as well as ensuring inadequate amenity for occupiers of the proposed development through overlooking and overbearing impacts from 62 Middlefield Lane into private amenity space and habitable room windows.
- 6.58 In summary, the proposal would result in unacceptable impacts on the amenity and privacy of existing occupiers on adjoining sites through insufficient separation distances and the siting of the appeal dwelling on a cramped site. It would also fail to ensure sufficient residential amenity for future occupiers of the appeal dwelling through its site layout, which would see private outdoor amenity space to the side of the dwelling in an area directly overlooked by a neighbouring dwelling.
- 6.59 By virtue of these factors, the appeal proposal would result in development incapable of providing sufficient amenity to future occupiers or existing adjoining uses, and which is therefore contrary to Council's Good Design Guide, DM10 of the SADMP and Paragraph 135 of the NPPF.

Neighbour Objections

- 6.60 The Appellant's Appeal Statement asserts at Paragraph 4.9 that, *"It is notable also that notwithstanding the sites planning history, there were no objections to the application 25/00080/FUL from neighbours in the area"*.
- 6.61 This is incorrect. Paragraph 5.2 of the Officer's Delegated Report confirms that two responses were received as a result of publicity. One response neither objected nor supported the proposal but did query its acceptability in light of the previous refusals. The second response objected to the proposal on the basis of concerns over the number of bedrooms, the dormer window, off-street parking space, the building line of the proposed dwelling, impacts to neighbour amenity, and the potential for street parking on a narrow road. The response in objection also highlighted the previous refusals on the site.

Planning Balance

- 6.62 To summarise, Section 38 (6) of the Planning and Compensation Act 2004 and Section 70 (2) of the Town and Country Planning Act 1990 indicate that planning permission should be granted for development proposals that accord with the Development Plan unless material considerations indicate otherwise.
- 6.63 Though it has been acknowledged that the current Development Plan was adopted prior to the publication of the latest version of the NPPF, the policies continue to

demonstrate a strong consistency with the wording of the NPPF. As noted previously, this position was supported for Policy DM10 of the SADMP by the Inspector in the dismissed appeal decision APP/K2420/W/24/3351678 at 21 Greenmoor Road, Burbage. As such, full weight should be given to the policies within the Development Plan, including Policy DM10, in accordance with Paragraph 232 of the NPPF.

- 6.64 As Paragraph 11(d) of the NPPF has been triggered, planning permission should be granted to development unless adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.
- 6.65 The Appellant's Appeal Statement states that despite efforts of the owner to design a suitable scheme, the Local Planning Authority have followed a similar line of reason to determine the application as had been adopted in previous applications on the site.
- 6.66 The Local Planning Authority assert that despite changes the NPPF since the determination of the previous two refused planning applications on the application site, the level of consistency of the Development Plan with the NPPF has not changed. The policies against which the appeal proposal has been assessed that are held in common with policies against which previous planning applications were determined, continue to attract consistent and significant weight in the planning balance.
- 6.67 The Appellant's Appeal Statement notes that the Officer's Delegated Report acknowledges that the Council does not have a Five-Year Housing Land Supply. In Paragraph 5.7 of the Statement it therefore goes on to state that the proposal would directly contribute to making effective use of land as per Paragraph 125(e) of the NPPF.
- 6.68 As Paragraph 125(e) of the NPPF refers to airspace above existing premises, it is assumed the intended reference in Paragraph 5.7 of the Appellant's Statement was in fact to Paragraph 125(d) of the NPPF. Paragraph 125(d) states that planning decisions should: *"promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively"*.
- 6.69 Further, Paragraph 6.1 of the Appellant's Statement states that:
- It is the applicants view that rather than seeking to use its available policy tools to 'promote an effective use of land in meeting the need for homes and other uses' (NPPF Paragraph 24), in this instance the Council has sought to use those tools to impede the development of a currently vacant site which is an eyesore on the local street scene and could easily attract anti-social behaviour.*
- 6.70 The Local Planning Authority strongly disagrees that the appeal site represents under-utilised land given its constrained size and the contrived nature of the resultant appeal proposal, inconsistent with the prevailing character of the surrounding area. Furthermore, the development of a dwelling that could not ensure adequate

residential amenity for adjoining or future occupants would not be an effective use of land.

6.71 Furthermore, as noted previously in this Statement, the Local Planning Authority strongly rejects the argument that the neglect of the application site should give weight to the development of an unsuitable and incongruous dwelling.

6.72 Paragraph 6.6 of the Appellant's Appeal Statement claims that:

"The Delegated Officer Report states at paragraph 8.12 that the Council's lack of a 5 year Land Supply is not material to the 'planning balance' when the application is for one house."

6.73 The Local Planning Authority strongly rejects this as an accurate summation of the assessment of the planning balance.

6.74 Paragraph 8.12 of the Officers Delegated Report clearly assigns positive weight in the planning balance to the provision of a residential property within the settlement boundary, however, it concludes that this weight would be limited. This position is further clarified in Paragraph 8.40 where it is concluded that the benefits arising from the dwelling of a single dwelling would be modest and therefore attract little weight.

6.75 As detailed above, the appeal proposal results in significant, permanent and detrimental impacts to the character and appearance of the surrounding area. Should this appeal be allowed, these adverse effects would undermine the spacious character of the locality and result in a dwelling that cannot ensure sufficient residential amenity for adjoining occupiers or to future occupiers of the appeal dwelling.

6.76 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.

Summary

6.77 In summary, the Local Planning Authority considers that this proposed dwelling would materially impact the character of the site and the surrounding area to its considerable detriment. The provision of a new detached dwelling on a site of this configuration and size would represent incongruous development unable to ensure sufficient residential amenity to the occupiers of adjacent development or to the future occupiers of the appeal dwelling.

6.78 In light of the above, the appeal proposal is contrary to, and in conflict with, Policy DM10 of the SADMP, Chapter 12 and Key Policy Paragraph 135 of the NPPF, the National Design Guide, and the Good Design Guide. In accordance with Key Policy Paragraph 135 of the NPPF, the development is not well designed and fails to reflect local design policy and should be refused.

6.79 The benefits associated with the provision of dwelling are modest and attract little weight in the planning balance. Therefore, the adverse impacts of this scheme

significantly and demonstrably outweigh the benefits of the development in these site-specific circumstances.

7. CONCLUSION

7.1 To summarise, 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 within this Statement and that submitted with the Appeal Questionnaire, Hinckley and Bosworth Borough Council respectfully requests that the appeal be dismissed.

7.2 However, if the Inspector is minded not to do so, the Local Planning Authority requests the inclusion of 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:

- Location and Block Plan 182-03 (submitted: 03.02.2025)
- Proposed Layout and Elevations 182-01 (submitted: 03.02.2025)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall not be brought into use until a scheme of hard and soft landscaping works, including 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 Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall not be first used until such time as the scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to, and approved in writing by, the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers. The scheme shall be carried out in full accordance with the approved details.

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.

5. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Proposed Layout and Elevations 182-01 (submitted: 03.02.2025). 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).

6. 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).

7. Notwithstanding the provisions of Part 2 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) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary, nor shall any be erected within a distance of 5 metres of the highway boundary unless hung to open away from the highway.

Reason: To enable a vehicle 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).

8. No development shall take place until a Biodiversity Net Gain Plan has been submitted to, and approved in writing by, the Local Planning Authority. The Biodiversity Net Gain (BNG) Plan should provide detail as to how 10% biodiversity net gain will be achieved including details of offsite BNG compensation, habitat credit provider, BNG Site Register reference number and purchased units or use of statutory biodiversity credits (proof of purchase and reference number).

Reason: To enhance biodiversity in accordance with the National Planning Policy Framework (2024), Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990, and Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. No development shall take place (including ground works or vegetation clearance) until a 30-year Habitat Monitoring and Management Plan (HMMP) prepared in accordance with an approved Biodiversity Net Gain Plan, has been submitted to, and approved in writing by, the Local Planning Authority. The approved HMMP shall contain, but shall not be limited to, the following:
 - (a) Description and evaluation of the features to be managed; and
 - (b) Ecological trends and constraints on the site that may influence management; and
 - (c) Aims, objectives and targets for management – links with local and national species and habitat action plans; and
 - (d) Description of the management operations necessary to achieving aims and objectives; and
 - (e) Preparation of a works schedule, including annual works schedule; and
 - (f) Details and a timetable of the monitoring needed to measure the effectiveness of management; and
 - (g) Details of the persons responsible for the implementation of the monitoring; and
 - (h) Mechanisms of adaptive management to account for necessary changes in work schedule to achieve the required targets; and
 - (i) Details of methodology and frequency of monitoring reports to be submitted to the Local Planning Authority to assess biodiversity gain.

The approved HMMP shall be strictly adhered to and implemented in full for its duration.

Reason: To enhance biodiversity in accordance with the National Planning Policy Framework (2024), Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990, and Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. APPENDICES

9.1 (See separate documents)

9.2 **Appendix A:** Appeal Decision – Land Adjacent to 29 Elizabeth Road, Hinckley (APP/K2420/W/19/3239130)

9.3 **Appendix B:** Appeal Decision – 21 Greenmoor Road, Hinckley (APP/K2420/W/24/3351678)